

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

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FAO-4046-2018 (O&M)

Date of decision: 08.05.2025

Sarita and another

...Appellant(s)

Vs.

Ram Phal and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Mehak Ghangas, Advocate for
Mr. Ajay Ghangas, Advocate
for the appellants.

NIDHI GUPTA, J.**CM-14243-CII-2018**

Prayer in this application filed under Section 151 CPC is for condonation of delay of 19 days in refiling the accompanying appeal.

Heard.

For the reasons mentioned in the application, the same is allowed and delay of 19 days in refiling the accompanying appeal is condoned.

CM-14244-CII-2018

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 68 days in filing the accompanying appeal.

Heard.



For the reasons mentioned in the application which is duly supported by an affidavit of the applicant/appellant No.1, the same is allowed and delay of 68 days in filing the accompanying appeal is condoned.

FAO-4046-2018 (O&M)

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.14,71,000/- awarded by the learned Motor Accident Claims Tribunal, Sonipat (hereinafter referred to as “the learned Tribunal”) vide Award dated 02.08.2017 passed in MACP Case No. 25 dated 13.01.2017 filed by the appellants under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as “the Act”). The 4 claimants are the widow, minor daughter and parents of the deceased Birender @ Virender. The appellants before this Court are the widow and minor daughter of the deceased Birender @ Virender.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that the deceased-Birender had died due to the injuries suffered by him in a motor vehicular accident that took place on 18.03.2016 due to the rash and negligent driving of Bus bearing registration No.HR-69-9937 (hereinafter referred to as “the offending vehicle”) being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.4. The aforesaid compensation was awarded along with interest @ 9% per annum from the date of filing the petition till actual realisation. The



respondents were held jointly and severally liable to pay the amount of compensation.

3. Learned counsel for the appellants seeks enhancement of compensation *inter alia* on the ground that the income of the deceased has been taken on the lower side as only Rs.6,000/- p.m. as that of unskilled labourer. It is contended that the deceased was a graduate and used to give tuitions/coaching to students and was also working as agriculturist and selling milk. It is contended that from the above vocations, deceased was earning Rs.30,000/- p.m. It is submitted that even otherwise as per the relevant minimum wage notification as prevalent in the State of Haryana from 01.01.2016 to 20.01.2017, minimum wage was Rs. 7,997/-p.m. As such income of the deceased has been taken on the lower side.

4. Learned counsel further submits that deduction of 1/3rd has been made towards personal expenses which is on the higher side. Nothing has been awarded towards loss of estate; whereas Rs.1 lac each should have been awarded under this head. Even multiplier has been incorrectly applied. Nothing has been granted under the head of transportation and Rs.25,000/- should have been awarded towards transportation. Only Rs.25,000/- has been awarded towards funeral expenses. Even the same deserves to be increased. Interest @ 9% per annum has been awarded and the same should be at least 24% per annum. It is accordingly prayed that the present appeal be allowed; and the impugned Award be modified.



5. No other argument is raised on behalf of the appellants.
6. I have heard learned counsel for the appellants and perused the case file in great detail.
7. I find no merit in the submissions advanced on behalf of the appellants. It is the case of the appellants that the deceased was an agriculturist, dairy farmer and milk vendor and was also giving tuitions etc. from which he was earning total Rs.30,000/-p.m. However admittedly, except the oral bald statement made by the claimants to this effect, no documentary evidence whatsoever has been produced by the appellants to substantiate the said assertion. No revenue record has been produced to show ownership of any agricultural land by the deceased. Even no lease deed was produced to show that he was doing agricultural work. No income tax returns or any other evidence has been placed on record to show that the deceased was earning Rs.30,000/- p.m. As such, in the absence of any evidence brought on record by the appellants, learned Tribunal on the basis of notification dated 07.10.2015 issued by the Labour Commissioner had assessed income of the deceased as Rs.5,886/- p.m. rounded off to Rs.6,000/- p.m. as that of unskilled daily wage labourer. Although it has been contended by learned counsel for the appellant that as per the relevant notification, minimum wage was Rs.7997/- pm, however, no such notification has been produced by Id. Counsel.
8. As such, I find no error in the income as assessed by the learned Tribunal as Rs. 6000/- per month i.e. Rs.72,000/- p.a. The age of



the deceased was proven on record as 25 years on the basis of Ex.P2, which is the copy of matriculation examination certificate. As such, future prospects ought to have been added @ 40%. However, learned Tribunal has added future prospects @ 50%. Clearly therefore, compensation in excess of what is payable to the appellants as per law, has already been granted to them. With addition of 50% future prospects, annual income of the deceased came to Rs.1,08,000/-. Learned Tribunal had not taken father of the deceased Ram Phal to be dependent upon him. As such, keeping in view that there are 3 claimants, learned Tribunal had made deduction of 1/3rd towards personal expenses; thereby calculating annual income to be Rs.72,000/-. As deceased was 25 years old, multiplier of 18 was correctly applied; and total dependency of Rs.12,96,000/- (Rs.70,000 x 18).

9. Under the conventional heads, learned Tribunal had awarded consortium of Rs.1 lac to the claimant No.1 widow, loss of love and affection of Rs.50,000/- to claimant No.2/minor daughter; and Rs.25,000/- towards funeral expenses; thereby granting total compensation of Rs.14,71,000/-. Even the said amounts are in excess of what is admissible to the appellants. As per recent judgments of the Hon'ble Supreme Court in **"Shri Ram General Insurance Co. Ltd. Vs. Bhagat Singh Rawat & Others"** Civil Appeal Nos.2410-2412/2023 and **"Mehmooda Bee & Others Vs. National Insurance Co. Ltd."** (@ SLP (C) No.16767 of 2022) and **"Bebi Giri Vs. National Insurance Co. Ltd."** Civil Appeal No.6551 of 2022,



it has been held that a total sum of Rs.77,000/- can be granted under conventional heads.

10. From the above facts, it is clear that a more than just and fair compensation has been awarded to the appellants. Nothing whatsoever has been shown to this Court that would merit enhancement of the compensation granted to the appellant. Accordingly, I find no case is made out that merits interference with the impugned Award. No doubt Chapter-12 of the Act is a beneficial legislation yet, as cautioned by the Hon'ble Supreme Court, the same cannot be allowed to be treated as a windfall or a source of profit. Hon'ble Supreme Court in '**State of Haryana Vs. Jasbir Kaur**' Law Finder Doc ID # **64043** and '**Divisional Controller K.S.R.T.C. Vs. Mahadev Shetty**', (2003) 7 SCC 197, has held that the amount of compensation should be just and reasonable, it should neither be a bonanza nor a source of profit but at the same time it should not be a pittance. Thus, all that has to be determined in the facts of a given case is, that the compensation accorded is 'just'. As already noted above, in the present case, the learned Tribunal has awarded a more than 'just' compensation, and therefore, does not warrant the interference of this Court. In case of **KSRTC Vs. Susamma Thomas 1994 Volume-II SCC 176**, the Hon'ble Supreme Court has held that misplaced sympathy, generosity and benevolence cannot be the guiding factor for determining the compensation.

11. In view of the above, present appeal is **dismissed**.



12. Pending application(s) if any also stand(s) disposed of.

08.05.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No