

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****209****FAO-2552-2015 (O&M)****Date of decision: 16.05.2025****Rahishan****...Appellant(s)****Vs.****Wakeel and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Nirmal Rani, Advocate for
Mr. Rajesh Lamba, Advocate for the appellant.

NIDHI GUPTA, J.

The present appeal has been filed by the claimant seeking enhancement of compensation of Rs.2,45,000/- awarded by the Motor Accident Claims Tribunal, Mewat (hereinafter referred to as 'the Tribunal') vide Award dated 07.08.2014 passed in MACT Case No. 32 dated 02.02.2012 filed under Section 166 of the Motor Vehicles Act, 1988. The said compensation was awarded upon the death of Naim - the 12-year-old son of the claimant.

2. Claim petition was filed by the appellant with the averments that *".....on 6.6.2011 at about 12.30 PM when Naim aged about 9 years son of the petitioner alongwith his cousin Mubarik son of Kasim came near bus stand, Fardari for purchasing house hold goods then a vehicle make TATA 407 No.HR38-L-8669 (hereinafter referred to as 'the offending vehicle) being driven by the respondent No.1 in rash and negligent manner came from village Kot side and hit to the said Naim. As a result of the impact, he*



sustained multiple grievous injuries and became unconscious. Mubarik after arranging a vehicle rushed him to hospital at Punhana, where he was declared brought dead. The said accident was caused due to the rash and negligent driving of the respondent no.1. It is submitted that the deceased was student. Due to untimely death of him, the petitioner has been deprived of love and affection. Though his death cannot be compensated in 10 lakh for which the (respondent no.1 being driver, respondent no.2 being owner and respondent no.3 being insurer of the offending vehicle) are jointly and severally liable to pay.”

3. The learned Tribunal on the basis of the pleadings and evidence adduced before it, concluded that the deceased Naim had died due to the injuries suffered by him in a motor vehicular accident that took place on 06.06.2011 due to the rash and negligent driving of a vehicle TATA 407 bearing registration No. HR-38L-8669 (hereinafter referred to as ‘the offending vehicle’) being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. The above said compensation was awarded along with interest @ 7% per annum from the date of institution of the petition till realization of the amount. Respondents No. 1 and 2/driver and owner respectively of the offending vehicle were held jointly and severally liable to pay the said compensation; and recovery rights were given to the insurer-respondent No.3.

4. The only argument raised by leaned counsel for the appellant for seeking enhancement of compensation is that the income of the deceased has not been properly calculated. It is submitted that learned



Tribunal has taken notional income of the deceased as only Rs.15,000/- per annum, which is erroneous. It is submitted that as stated in para 8 of the present Grounds of Appeal, calculation ought to have been made on the basis of Minimum Wages Act. It is accordingly prayed that the present appeal be allowed; and the compensation be enhanced.

5. No other argument is raised on behalf of the appellant.

6. I have heard learned counsel for the appellant and perused the case file in great detail.

7. The sole argument raised on behalf of the appellant is that the notional income of her 12-year-old-son has been taken on the lower side as Rs.15,000/- per annum; and the same ought to have been taken on the basis of the relevant Minimum Wage Notification. However, no Minimum Wages Act notification has been produced by the appellant to show that at the relevant time, which is 06.06.2011, income of unskilled labour was more than Rs.15,000/- per annum.

8. Further, it had been pleaded in the claim petition that the deceased was 9 years old. However, as per the postmortem report Ex.P3, deceased was found to be 12 years old. Learned Tribunal had accordingly correctly applied multiplier of 15 and awarded the above said compensation.

9. In view of the above, no ground to interfere in the impugned Award dated 07.08.2014 is made out. The compensation awarded to the appellant is just and fair in the facts and circumstances of the case. No



ground is made out to enhance the impugned compensation. The present appeal is hereby **dismissed**.

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

16.05.2025

Divyanshi

(NIDHI GUPTA)

JUDGE

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