

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

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FAO-3705-2023 (O&M)**Date of decision: 03.09.2025****Sapna and others****...Appellant(s)****Vs.****Harish Kumar and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Pardeep Panwar, Advocate for the appellants.

NIDHI GUPTA, J.**CM-12182-CII-2023**

Prayer in this application filed under Section 5 of the Limitation Act read with Section 151 CPC is for condonation of delay of 90 days in filing the accompanying appeal.

2. 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 90 days in filing the accompanying appeal is condoned.

FAO-3705-2023 (O&M)

The present appeal has been filed by the appellants seeking enhancement of compensation of Rs.21,26,320/- awarded by the learned Motor Accident Claims Tribunal, Rohtak (hereinafter "the learned Tribunal") vide Award dated 16.11.2022 passed in MACP Case No.115 dated 16.06.2020 filed under Section 166 of the Motor Vehicles Act,



(hereinafter “the Act”). The 5 claimants are the widow, 2 minor children, and parents of the deceased Surrender.

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-Surrender had died due to the injuries suffered by him in a motor vehicular accident that took place on 03.03.2020 at about 10:30 A.M. due to the rash and negligent driving of a Canter bearing registration No.HR-38-AA-5224 (hereinafter “the offending vehicle”) being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. Ld. Tribunal awarded the above said compensation along with interest @ 6% per annum. All the respondents were held liable to pay the compensation jointly and severally.

3. The only ground on which the learned counsel for the appellants seeks enhancement of compensation is that nothing has been awarded by way of love and affection. It is accordingly submitted the impugned Award be modified and compensation be enhanced.

4. No other argument is raised on behalf of the appellant. I have heard Id. Counsel and perused the case file in detail. I find no merit whatsoever in the submissions made on behalf of the appellant.

5. It was the pleaded case of the appellants before the Tribunal that the deceased was having a diploma of Electrician from Gurgaon in 2006; and was Electrician by profession having a shop of electrical parts in village Nigana from which he was earning Rs.30,000/- p.m. Accordingly, compensation of Rs.80 lacs was prayed for.



6. Although the appellants were unable to prove the avocation or the income of the deceased, they had proved the qualification of the deceased by producing copies of Certificates (Ex.P5 and Ex.P6) issued by Maharana Pratap Industrial Private Training Center and Rudset Institute, Gurgaon, as per which the deceased had completed training in the trade of Electrician. The claimants had produced no documentary evidence of their contention that the deceased was running an electrical shop. As such, learned Tribunal had taken income of the deceased as Rs.10,200/- p.m. as that of a skilled labour on the basis of relevant Minimum Wage Notification. Further, from the Matriculation Certificate of the deceased Ex.P4, wherein date of birth of the deceased is mentioned as 08.02.1986, age of the deceased was determined to be 34 years old. Accordingly, addition of 40% was made towards future prospects; and monthly income was calculated to be Rs.14,280/- p.m. (Rs.10,200+Rs.4,080). As there were 5 claimants, deduction of 1/4th was made towards personal expenses; thereby calculating monthly income to be Rs.10,710/- (Rs.14,280-3570); and annual income to be Rs.1,28,520/-. Multiplier of 16 was correctly applied; thereby total compensation was calculated to be Rs.20,56,320/- (Rs.1,28,520 x 16). Learned Tribunal had further awarded Rs.15,000/- each towards loss of estate and funeral expenses; and Rs.40,000/- towards loss of consortium; thereby granting total compensation of Rs.21,26,320/-.

7. From the above facts, it is clear that a very 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.

8. Reference may be made to judgment of the Hon'ble Supreme Court in **SLP No.13931 of 2017 titled as "New India Assurance Co. Ltd. Vs. Vinish Jain & Others"**, wherein it has been held that where difference in compensation is about 4 to 5 per cent only, it does not warrant interference by this Court as, such variation in compensation is within permissible limits.

9. This above-said judgment of the Hon'ble Supreme Court has been followed by the Kerala High Court in "**The Managing Director, Divisional Controller Versus Alikutty and Others**" **Law Finder Doc Id # 1885188**. Relevant para 18 of the said judgment is reproduced below:-

*"18. It is to be borne in mind, the accident occurred on 23,2,2019. It is more than 2 ½ years since the respondents 1 to 4 have been knocking at the doors of the Courts seeking compensation on account of the death of the bread-winner. It is trite law that the Tribunal is permitted to do some guess work and also exercise its discretion to fix the reasonable and just compensation, for which there cannot be any straightjacket formula based on mathematical precision. In **New India Assurance Company Vs. Vinish Jain and Others [(2018) 3 SCC 619]**, the Hon'ble Supreme Court has held that if the fixation of compensation is within permissible limits, the courts should normally not interfere with such awards".*

10. Above said view has been reiterated by the Kerala High Court in "**Reliance General Insurance Company Limited Vs. Adila and Others**", **Law Finder Doc ID # 1921609**, paras 16 and 17 of which read as under:-

"16. The other area of dispute is that the Tribunal after awarding compensation under the conventional heads has awarded Rs.75,000/- towards loss of love and affection and Rs.10,000/- awarded towards pain and sufferings.



17. In ***New India Assurance Co., Ltd v. Vineesh.J [2018 (3) SCC 619]***, the Hon'ble Supreme Court has held that the Appellate Court can permit variation of plus or minus 4 to 5 percent.”

11. Furthermore, a 3-Judge Bench judgment of the Hon'ble Supreme Court in the case of “**Reshma Kumari v. Madan Mohan (SC) 2013(5) Scale 160; Law Finder Doc ID # 421379**”; holding that: “*Motor Vehicles Act, 1988, Section 168 - Section 168 provides that amount of compensation awarded by the Claims Tribunal which appears to it to be just - The expression, 'just' means that the amount so determined is fair, reasonable and equitable by accepted legal standards and not a forensic lottery - Obviously 'just compensation' does not mean 'perfect' or 'absolute' compensation - The just compensation principle requires examination of the particular situation obtaining uniquely in an individual case.*”

12. Thus, no ground is made out to interfere in the impugned Award. Accordingly, the present appeal is hereby **dismissed**.

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

03.09.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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