

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

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FAO-4015-2022 (O&M)

Date of decision: 03.09.2025

Braham Chand and others

...Appellant(s)

Vs.

Sombir and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Alisha Soni, Advocate for the appellants.

NIDHI GUPTA, J.**CM-12360-CII-2022**

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 02 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 02 days in filing the accompanying appeal is condoned.

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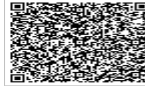
The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.13,03,720/- awarded by the learned Motor Accident Claims Tribunal, Hisar (hereinafter "the learned Tribunal") vide Award dated 05.04.2021 passed in MACT Case No.64 dated 08.03.2019 filed under Section 166 of the Motor Vehicles Act, (hereinafter "the Act"). The 3 claimants are the parents, and brother of the deceased



Anand Kumar, who is stated to be 31 years, 9 months old at the time of accident.

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-Anand Kumar had died due to the injuries suffered by him in a motor vehicular accident that took place on 05.01.2019 due to rash and negligent driving of a Car bearing registration No.HR-01S-4975 (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 jointly and severally liable to pay the compensation amount.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that income of the deceased has been taken on the lower side. It is submitted that it was the clear categorical case of the appellants/claimants that the deceased was working as a Cook in a Hotel. Besides that, as claimant No.1-father of the deceased was also owning 3 acres of agricultural land, the deceased used to cultivate the said land as the claimant No.1 was unable to move or walk. The deceased was also running a dairy farm in the village. From all of the above, the deceased was earning Rs.20,000/- p.m. However, learned Tribunal had taken income of the deceased as that of unskilled labourer as only Rs.8,800/- p.m. Learned counsel contends that thus, income of the



deceased ought to have been taken at least as that of a skilled labourer as Rs.10,218.79 p.m. as per Notification dated 01.01.2019.

4. It is further submitted that nothing has been awarded towards future prospects. Learned counsel refers to para 8 of the present Grounds of Appeal to submit that MACT *“has not awarded a single penny with regard to future prospects, whereas the same were required to be awarded atleast @ 20% addition.”* Even less amount of Rs.16,500/- has been awarded towards funeral expenses; whereas the appellant has spent Rs.1 lakh on the last rites of the deceased. Even consortium ought to have been awarded to the tune of Rs.1 lakh each. Even Rs.1 lakh each was required to be given for love and affection; and Rs.1 lakh for counsel fee and litigation charges; interest is given only @ 6% p.a. which should be 18%. Multiplier of 16 has been applied which should be 18. It is accordingly prayed that the present Appeal be allowed; and the impugned Award be modified and compensation be enhanced in the above manner.

5. 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.

6. It is the pleaded case of the appellants/claimants that the deceased was working as a Cook in the hotel, and he was also tending agricultural land, and was running a dairy farm from which he was earning Rs.20,000/-p.m. However, except for the oral testimony of claimant No.1/father of the deceased as PW1, there is no evidence at all on record to substantiate the said averments. In this circumstance, learned Tribunal



had taken notional income of the deceased as that of an unskilled labourer on the basis of Notification dated 15.02.2019 issued by Labour Department, Haryana Government as Rs.8,827/- rounded off to Rs.8,800/- p.m.; and annual income to be Rs.1,05,600/-p.a. (Rs.8,800 x 12). Further, age of the deceased was proved to be 31 years 9 months from his Middle Examination Certificate Ex.P1; wherein his date of birth was mentioned as 02.04.1987. Accordingly, an addition of 40% was made towards future prospects; thereby calculating annual income to be Rs.1,47,840/- (Rs.1,05,600 + Rs.42,240). As deceased was a bachelor, deduction of 50% was correctly made towards personal expenses; thereby calculating annual dependency to be Rs.73,920 (Rs.1,47,840-73,920). Multiplier of 16 was correctly applied; thereby calculating compensation amount to be Rs.11,82,720/- (Rs.73,920 x 16). Learned Tribunal had further awarded Rs.16,500/- each towards loss of estate and funeral expenses; and Rs.44,000/- each to the parents towards loss of consortium; thereby granting total compensation of Rs.13,03,720/-. Accordingly, learned Tribunal has calculated the compensation in the following manner: -

Sr. No.	Head under which amount awarded	Amount
(i)	Loss of dependency	Rs.11,82,720/-
(ii)	Compensation on account of consortium (Rs.44,000 x 2)	Rs.88,000/-
(iii)	Funeral Expenses	Rs.16,500/-
(iv)	Compensation on account of loss of estate	Rs.16,500/-
	Total	Rs.13,03,720/-



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 appellants. 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. Mahadeva Shetty and another*" (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. In case of "*General Manager, KSRTC Vs. Susamma Thomas and others*" (1994) 2 SCC 176, the Hon'ble Supreme Court has held that misplaced sympathy, generosity and benevolence cannot be the guiding factor for determining the compensation.

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

9. 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