

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

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FAO-4107-2008 (O&M)**Date of decision: 27.01.2025****Sunita and others****...Appellant(s)****Vs.****Birbal and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Naveen Jhajholia, Advocate for
Mr. Sanjiv Gupta, Advocate for the appellants.

Mr. Ravinder Arora, Advocate for the
respondent-insurance co.

NIDHI GUPTA, J.**CM-22332-CII-2008**

Prayer in this application filed under Section 5 of the Limitation Act, 1963 is for condonation of delay of 5 days in filing the accompanying appeal.

Heard.

For the reasons mentioned in the application, the same is allowed and delay of 5 days in filing the accompanying appeal is condoned.

FAO-4107-2008 (O&M)

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.2,95,800/- awarded by



the Motor Accident Claims Tribunal, Jind (hereinafter referred to as 'the Tribunal') vide Award dated 03.03.2008 passed in MACT Case No. 11 dated 29.01.2007 filed under Section 163A of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The 3 claimants are the Widow and 2 minor children of the deceased Jaswant Singh, who was stated to have been about 31 years old at the time of accident.

2. Brief facts of the case are that the learned Tribunal on the basis of the pleadings and evidence adduced before it, concluded that the deceased Jaswant Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 10.11.2006, at about 3.10 p.m. due to the rash and negligent driving of motorcycle Bajaj Discover temporary number HR-99L-Temp. 2839 (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 learned Tribunal awarded compensation as above alongwith interest @ 7.5% per annum. All the respondents were held jointly and severally liable to pay the said compensation.

3. Learned counsel for the appellant seeks enhancement of compensation primarily on two grounds: a) that nothing has been granted by way of future prospects; and b) that admittedly at the time of accident, the deceased was 31 years of age and, therefore, multiplier of 16 should have been applied; whereas the learned Tribunal has applied multiplier of 13. It is further submitted that an



amount of Rs.40,000/- each by way of spousal and filial consortium is also admissible to the claimants.

4. Learned counsel for the respondent-Insurance Company submits that the present claim petition was filed by the appellants/claimants under Section 163A of the Act; and therefore, compensation over and above Rs.5 lacs cannot be granted to them. It is submitted that therefore, enhancement, if any, can be made only upto Rs.5 lacs.

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

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

7. Brief facts of the case as set out by the claimants in the claim petition are that on 10.11.2006 at about 3.10 pm, the deceased was a pillion rider on the offending vehicle when a cow came on the road and in order to avoid the accident, the respondent No.1 while giving turn to his motorcycle struck against an electric pole due to the impact of which the deceased fell on the ground and received injuries, to which he succumbed on 13.11.2006. As already noticed above, on the basis of the evidence led by the parties, the learned Tribunal concluded that the accident in question had taken place due to the rash and negligent driving of the offending motorcycle by respondent no.1; and accordingly, the claimants had been granted the impugned compensation.



8. As per the evidence brought on record, the learned Tribunal found that the deceased was an agriculturist; and his income was taken as Rs.1,800/- p.m.; age of the deceased was established to be 31 years on the basis of the Post Mortem Report; and as per the applicable law at that time, multiplier of 13 was applied; and compensation was awarded as $1800 \times 12 = 21600 \times 13 = 2,80,800/-$. Further amount of Rs.15,000/- was granted towards the funeral expenses and loss of estate. Thus, the total compensation of Rs.2,95,800/- (Rs.2,80,000+15,000) was awarded.

9. Bare reading of the above shows that nothing has been granted to the appellants by way of future prospects; spousal and filial consortium; and even incorrect multiplier has been applied as per the prevalent law.

10. Thus, keeping in view the facts as noted above, the present appeal is **allowed**. However, as per the mandate of Section 163A of the Act, compensation beyond Rs. 5 lakhs is not admissible to the claimants under the said provision. Accordingly, the compensation awarded to the appellants is enhanced by Rs.2,04,200/- (Rs.5,00,000-2,95,800).

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

27.01.2025

Divyanshi

(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No