



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 21.05.2025

FAO-6136-2018(O&M)

Maya Devi & Another

...Appellant(s)

Vs.

Visakha Singh @ Ravinder Singh & Others

...Respondent(s)

FAO-5777-2018(O&M)

Maya Devi & Another

...Appellant(s)

Vs.

Visakha Singh @ Ravinder Singh & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Pawandeep Singh, Advocate
for the appellants.

Mr. Harjinder Singh, Advocate with
Ms. Parnika Singla, Advocate
for respondent No.3.

NIDHI GUPTA, J.

FAO-6136-2018

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.67,50,000/- awarded by Motor Accident Claims Tribunal, Gurdaspur (for short, 'the learned Tribunal'), vide Award dated 01.02.2018 passed in Claim Petition No.9 dated 01.05.2017 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). The 2 claimants are the mother and minor daughter of deceased Om Parkash.

**FAO-5777-2018**

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.8,70,000/- awarded by the Id. Tribunal, vide Award dated 01.02.2018 passed in Claim Petition No.10 dated 01.05.2017 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). The 2 claimants are the mother-in-law and minor daughter of deceased Asha Rani.

Both the above appeals are being disposed of by this common order as both arise out of the same accident dated 11.04.2017; claimants in both the appeals are same persons; date of Award in both Claim Petitions is 01.02.2018; and deceased Om Parkash and Asha Rani in both the appeals are husband and wife who died in the same accident dated 11.4.2017.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and oral & documentary evidence adduced before it concluded that deceased Om Parkash and Asha Rani had died due to the injuries suffered by them in a motor vehicular accident that took place on 11.04.2017 due to the rash and negligent driving of tractor bearing registration No.PB-06-E-5973 (hereinafter referred to as "the offending vehicle") by respondent No.1. The offending vehicle was owned by respondent No.2 and insured by respondent No.3.

3. In FAO-6136-2018, it is submitted by learned counsel for the appellants that compensation of Rs.67,50,000/- awarded by the learned



Tribunal is on the lower side as nothing has been awarded by way of loss of consortium and loss of estate.

4. Learned counsel for the respondents opposes the submissions made on behalf of the appellants and submits that amount of Rs.15,000/- has been awarded by learned Tribunal towards loss of love and affection.

5. I find no merit in the above said contention of learned counsel for the appellants. Perusal of record shows that it was the pleaded case of the appellants before the learned Tribunal that the deceased was working as a Havaldar in the Indian Army and was drawing a salary of approximately Rs.42,000/- per month and that he was Income Tax assessee. It was also stated by the appellants that the deceased was doing agricultural work in addition. However, no proof of any agricultural income was brought on record by the appellants. Accordingly, on the basis of evidence produced before it, learned Tribunal found that gross salary of the deceased was Rs.50,009/-. After deduction of Income Tax, monthly income of the deceased was assessed to be Rs.46,129/-. Age of the deceased was proved to be 45 years from his Post-Mortem Report (Ex.C2). As such, learned Tribunal had correctly made an addition of 30% towards future prospects keeping in mind the fact that the deceased was less than 50 years old and was a regular Government employee; and thereby calculating monthly income to be Rs.59,967/- rounded off to Rs.60,000/-. As there were two claimants, learned Tribunal correctly made deduction of 1/3rd towards personal expenses. Multiplier of 14 was also correctly applied as



deceased was 45 years old. Accordingly, total dependency was calculated to be ₹67,20,000/- (Rs.60,000/- x 2/3 x 12 x 14). Learned Tribunal further awarded Rs.15,000/- towards loss of love and affection and Rs.15,000/- towards funeral expenses. The said compensation amount was apportioned as follows: -

Claimant No.1 Maya Devi (mother)	Rs.17,50,000/- along with interest
Claimant No.2 (minor daughter)	Rs.50,00,000/- along with interest

6. No doubt, an amount of only Rs.15,000/- has been awarded by way of loss of love and affection; and nothing has been awarded by way of loss of estate. However, it has been held by Hon'ble Supreme Court in **"New India Assurance Co. Ltd. Vs. Vinish Jain & Others"** **Law Finder Doc ID # 977386**, 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.

7. 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”.*

8. 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.”*

9. Moreover, 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 Law Finder Doc ID # 2251622 and **“Mehmooda Bee & Others Vs. National Insurance Co. Ltd.”** (@ SLP (C) No.16767 of 2022) Law Finder Doc ID # 2070774 and **“Bebi Giri Vs. National Insurance Co. Ltd.”** Civil Appeal No.6551 of 2022 Law Finder Doc ID # 2070826, a total sum of Rs.70,000/- is to be granted under the conventional heads; whereas in the present case, amount of Rs.30,000/- has been awarded.

10. In FAO-5777-2018, learned counsel for the appellants submits that deceased Asha Rani was a housewife. It is submitted that her income has been taken on the lower side as only Rs.5,000/- per month.



Learned counsel relies upon judgment of Hon'ble Supreme Court in "**Arvind Kumar Pandey & Others Vs. Girish Pandey & Another**" Civil Appeal No.2512 of 2024 decided on 16.02.2024, Law Finder Doc ID # 2563908, to submit that it has been held in the said judgment that income of the housewife who is a homemaker, has to be taken as per the "*wages admissible to a daily wager...under the Minimum Wages Act*". Learned counsel submits that in the present case, as per the relevant Notification (Annexure A-2), income of the deceased ought to have been taken as about Rs.7,800/-. Thus, compensation of Rs.8,70,000/- awarded by the learned Tribunal is on the lower side as income of the deceased has been taken as only Rs.5,000/- per month.

11. Ld. Counsel for the respondent Insurance Company submits that there is no error in the notional income as assessed by the learned Tribunal. It is submitted that a very fair and just compensation has been awarded to the appellants. It is accordingly prayed that the appeals be dismissed.

12. I have given my thoughtful consideration to the rival submissions of the parties as also perused the file. Whereupon, I find no merit in the submission of Id. Counsel for the appellants. It was the pleaded case of the appellants before the learned Tribunal that the deceased was doing work of stitching and tailoring and was earning Rs.10,000/- per month. As appellants were unable to prove the said income, learned Tribunal had assessed notional income of the deceased as Rs.5,000/- per month. In doing so, learned Tribunal relied upon



judgment of this Court in “**Neetu & Others Vs. Jaswant & Others**” Law Finder Doc ID # 749493, 2016(2) RCR (Civil) 486, in which it has been held that income of household lady be assessed keeping in view price index of 2012. Learned Tribunal had accordingly taken income of the present deceased Asha Rani as Rs.5,000/- per month on the basis of the price index at the relevant time. In further compliance with the said judgment in **Neetu (supra)**, as notional income of the deceased had been taken into consideration only to assess compensation, learned Tribunal awarded nothing by way of future prospects and made no deduction towards personal expenses. Learned counsel for the appellants has failed to indicate any error in the said assessment and/or distinguish the said judgment.

13. Ld. Counsel for the appellants has relied upon judgment of the Hon’ble Supreme Court in **Arvind Kumar Pandey (supra)**. However, the said case is distinguishable on facts inasmuch as in the said case, the Tribunal had awarded a lump-sum compensation of Rs.2,50,000/- to the claimants therein, which was then enhanced to Rs.6 lakhs by the Hon’ble Supreme Court. As such, there was no real or actual determination of the notional income of the deceased housewife therein; and a general and random observation had been made by the Hon’ble Supreme Court to the effect that income of deceased homemaker should be determined on the basis of the relevant Minimum Wages Notification. Needless to say, there can be no dispute with the said observation of the Hon’ble Apex Court. However, in the present case, it is admitted by



learned counsel for the appellants that no such notification was produced by the appellants before the learned Tribunal. At this stage, it has been contended by learned counsel for the appellants that it was upon the Court to take judicial notice of the relevant Notification. However, the Court can only take judicial notice of the facts produced and pleaded before it. In view of the said admitted facts, notional income of the deceased was correctly assessed as Rs.5,000/- per month.

14. Further, age of deceased Asha Rani was determined to be 42 years as stated by claimant No.1 in her affidavit (Ex.CW1/A). Accordingly, multiplier of 14 was correctly applied; and total dependency was calculated to be Rs.8,40,000/- (Rs.5,000/- x 12 x 14). Learned Tribunal further awarded Rs.15,000/- towards loss of love & affection and loss of estate; and Rs.15,000/- towards funeral expenses; thereby granting total compensation of Rs.8,70,000/-, which was apportioned as follows:-

Claimant No.1 Maya Devi (mother-in-law)	Rs.70,000/- along with interest
Claimant No.2 (minor daughter)	Rs.8,00,000/- along with interest

15. From the above facts, it is clear that a just and fair compensation has been awarded to the appellants. In view of the discussion above, I find no case is made out which merits interference with the impugned Awards. I find the compensation awarded to the appellants to be just and fair in the facts and circumstances of the case. 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 & Another Vs. Jasbir Kaur & Others'** 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. In my considered view, in the present case, the learned Tribunal has awarded a 'just' compensation, and therefore, does not warrant the interference of this Court. In the case of "**General Manager, KSRTC Vs. Susamma Thomas & Others**" 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.

16. In view of the above, both the appeals are **dismissed**.

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

21.05.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No