



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

269

Date of decision: 18.03.2025

<p><b>Shinder Pal Kaur &amp; Another</b></p> <p align="center"><b>Vs.</b></p> <p><b>Roop Singh &amp; Others</b></p> <p align="center"><b>***</b></p> <p><b>Shinder Pal Kaur &amp; Others</b></p> <p align="center"><b>Vs.</b></p> <p><b>Roop Singh &amp; Others</b></p>	<p><b>FAO-1046-2021(O&amp;M)</b></p> <p><b>...Appellant(s)</b></p> <p><b>...Respondent(s)</b></p> <p><b>FAO-1560-2021(O&amp;M)</b></p> <p><b>...Appellant(s)</b></p> <p><b>...Respondent(s)</b></p>
---	---

**CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Deepak Gupta, Advocate  
for the appellants.

\*\*\*

**NIDHI GUPTA, J.**

**CM-8763-CII-2021 IN FAO-1046-2021**

This is an application u/s 5 of the Limitation Act read with Section 151 CPC for condonation of delay of 397 days in filing the appeal.

After going through the contents of the application, which is supported by affidavit of the applicant, the same is allowed subject to all just exceptions and delay of 397 days in filing the present appeal is condoned.

**CM-10172-CII-2021 IN FAO-1560-2021**

This is an application u/s 5 of Limitation Act read with Section 151 CPC for condonation of delay of 397 days in filing the appeal.



After going through the contents of the application, which is supported by affidavit of the applicant, the same is allowed subject to all just exceptions and delay of 397 days in filing the present appeal is condoned.

### **MAIN CASE**

**FAO-1046-2021** has been filed by the claimants seeking enhancement of compensation of Rs.10,19,000/- awarded by the Motor Accident Claims Tribunal, Bathinda vide Award dated 06.04.2019 passed in MAC File No.54 dated 29.04.2016 titled as "Shinder Pal Kaur & Another Vs. Roop Singh & Others", filed by the appellant/claimants under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Natha Singh. The 2 claimants are the 56-year-old widow and 29-year-old unmarried daughter of the deceased Natha Singh. The above said compensation was granted along with interest @ 7.5% per annum from the date of filing of claim petition till its realisation.

**FAO-1560-2021** has also been filed by the claimants seeking enhancement of compensation of Rs.2,45,420/- awarded by the Motor Accident Claims Tribunal, Bathinda vide Award dated 06.04.2019 passed in MAC File No.53 dated 29.04.2016 titled as "Shinder Pal Kaur & Another Vs. Roop Singh & Others", filed by the appellant/claimants under Section 166 of the Motor Vehicles Act seeking compensation on account of damages caused to their Toyota Innova vehicle. The learned Tribunal partly allowed this claim petition with costs and awarded the above said



compensation along with interest @ 7.5% per annum from the date of filing of claim petition till its realisation.

Both the above appeals are being disposed of by this common order as they arise out of the same Award dated 06.04.2019 passed by the Motor Accidents, Claims Tribunal, Bathinda; and out of the same accident dated 27.1.2016; and because the parties, facts, and issues in the appeals are identical.

For the sake of convenience, the parties are being referred to and the facts are being drawn from FAO-1046-2021.

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 the deceased Natha Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 27.01.2016 at about 5-6 pm due to the rash and negligent driving of Swift car bearing registration No.HR-44G-9240 (hereinafter referred to as “the offending vehicle”) by respondent No.2.The offending vehicle was owned by respondent No.1 and insured by respondent No.3.

3. Learned counsel for the appellants seeks enhancement of compensation solely on the ground that the deceased was a retired employee, yet nothing has been granted by way of future prospects. It is further submitted that the deceased was drawing pension of Rs.18,000/- per month yet his income has been taken as only Rs.14,500/- per month. It is accordingly prayed that the compensation so granted be enhanced.



4. No other argument is made on behalf of the appellants.
5. I have heard learned counsel for the appellants and perused the case file in great detail.
6. I find no merit whatsoever in the arguments advanced on behalf of the appellants. Perusal of record of the case shows that at the time of accident, the deceased was 61 years old. Age of the deceased stands proved from his Post-Mortem Examination Report (Ex.C1). The argument raised on behalf of the appellants is that nothing has been granted by way of future prospects. However, it has been held by a Constitution Bench judgment of Hon'ble Supreme Court in "**National Insurance Company Ltd. VS. Pranay Sethi & Others**" Law Finder Doc ID # **918174**, that when the age of the deceased is 60 years or more, no addition has to be made by way of future prospects. Further, it has been submitted by learned counsel for the appellants that the deceased was drawing a pension of Rs.18,000/- per month, yet his income has been taken as only ₹14,500/- per month. However, this is factually incorrect as, as noted in Para 25 of the impugned Award, as per the photocopies of the passbooks of deceased Natha Singh placed on record by the claimants as Ex.C2, the last entry of pension credited into his account is shown to be Rs.14,418/-. Accordingly, the learned Tribunal had concluded that the deceased was drawing monthly pension of Rs.14,418/- which was rounded off to Rs.14,500/-.



7. It may further be noticed that it was the pleaded case of the appellants that the deceased was an agriculturist. From Jamabandi (Ex.C4), it was shown that the deceased was owner of 2 acres of agricultural land. Although no income was proved from the said land, the learned Tribunal held that the said land had devolved upon the claimants. As such, learned Tribunal had taken expenses of management of the said land to be Rs.2,000/- per month. Accordingly, income of the deceased was calculated to be Rs.16,500/- per month (Rs.14,500/- as pension + Rs.2,000/- for managerial purposes of the agricultural land). As the claimants were two in number, Deduction of  $1/3^{\text{rd}}$  was correctly made towards personal expenses. Thus, monthly income came to be Rs.11,000/-; and annual income was calculated to be Rs.1,32,000/- (Rs.11,000/- x 12). As the deceased was 61 years old, multiplier of 7 was correctly applied. Thus, taking annual dependency to be Rs.9,24,000/- (Rs.1,32,000/- x 7). Learned Tribunal further granted Rs.15,000/- towards funeral charges; and Rs.40,000/- each to widow and daughter of the deceased towards loss of consortium. Thus, granting total compensation of Rs.10,19,000/- (Rs.9,24,000/- + Rs.15,000/- + Rs.80,000/-).

8. In the **FAO-1560-2021** no argument whatsoever has been advanced by the learned counsel for the appellants. Claimants have sought higher compensation for the damage caused to their Toyota Innova. However, no cogent convincing evidence has been led by claimants to show that they have suffered any loss of business due to non-



plying of their vehicle on account of damages caused to it. Gurjinder Singh CW2 has proved his report (Ex.C1) whereby he assessed the loss caused to Innova vehicle as Rs.2,45,420/- after deducting the salvage value of Rs.3,000/-. As such, no ground is made out to enhance the compensation of ₹2,45,420/- awarded by the learned Tribunal.

9. 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. Accordingly, in view of the discussion above, I find no case is made out which merits interference with the impugned Award. I find the compensation awarded to the appellant 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. Thus, all that has to be determined in the facts of a given case is, that the compensation accorded is 'just'. In my considered view, in the present case, the learned Tribunal has awarded a very 'just' compensation, which is in accordance with the



law laid down by the Hon'ble Supreme Court 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.

10. Learned counsel for the appellants is unable to dispute or controvert the aforesaid facts and findings.

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

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

**18.03.2025**

Sunena

**(Nidhi Gupta)**

**Judge**

**Whether speaking/reasoned: Yes/No**

**Whether reportable: Yes/No**