

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

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FAO-959-2024 (O&M)

Date of decision: 25.08.2025

Parvesh Rani and others

...Appellant(s)

Vs.

Yoginder Singh and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Naveen Singh Mandhan, Advocate
for the appellants.

NIDHI GUPTA, J.**CM-3711-CII-2024**

Prayer in this application filed under Section 151 CPC is for condonation of delay of 106 days in refiling the accompanying appeal.

2. Heard.

3. For the reasons mentioned in the application which is duly supported by an affidavit of learned counsel for the applicant/appellant, the same is allowed and delay of 106 days in refiling the accompanying appeal is condoned.

CM-3712-CII-2024

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 33 days in filing the accompanying appeal.

2. Heard.



3. For the reasons mentioned in the application which is duly supported by an affidavit of learned counsel for the applicant/appellant, the same is allowed and delay of 33 days in filing the accompanying appeal is condoned.

FAO-959-2024 (O&M)

The present appeal has been filed by the claimants seeking enhancement of compensation of ₹19,96,565/- awarded by the learned Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as “the learned Tribunal”) vide Award dated 12.05.2023 passed in MACP Case No. 343 dated 07.09.2020 filed under Sections 140/166 of the Motor Vehicles Act, (hereinafter referred to as “the Act”). The 5 claimants are the widow; 2 minor children; and parents of the deceased Braham Pal, who was 39 years 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-Braham Pal had died due to the injuries suffered by him in a motor vehicular accident that took place on 28.02.2020 due to the rash and negligent driving of a Truck bearing registration No.HP-12D-8050 (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 the above said compensation along with interest @ 7.5% per annum. All the respondents were held liable to pay the said compensation jointly and severally.



3. Learned counsel for the appellants seeks enhancement of compensation by submitting that learned Tribunal has taken the income of the deceased on the lower side as only ₹9,458/- p.m. It is contended that in doing so, learned Tribunal had ignored the fact that it was the specific pleading of the appellants that the deceased was working as a Carpenter; as also running dairy business from which he was earning ₹40,000/- p.m. Moreover, appellants had placed on record salary certificate Ex.P8 of the deceased to prove that he was working as Carpenter with Dashmesh Furniture, Shahabad, from which he was earning Rs.15,000/- per month along with other expenses of meals etc. @ ₹200/- per day. However, all these facts have been ignored by the learned Tribunal and income has been assessed as only ₹9458/- p.m.

4. Further, learned Tribunal has erred in making addition of only 40% towards future prospects. It is submitted that monthly income of the deceased deserves to be enhanced to ₹15,000/- p.m. as prayed for in the claim petition and accordingly, addition of at least 100% thereupon towards future prospects, ought to have been applied. Even deduction of 1/4th has been wrongly made and the same ought to have 1/5th. At least ₹2 lacs each ought to have been granted towards consortium. Further, learned Tribunal failed to appreciate that ₹1 lac was spent upon the treatment, transportation and last rites of the deceased. However, compensation on these heads has not been awarded. Even for loss of estate and funeral expenses, ₹1 lac each ought to have been awarded. Further, interest has been given only @ 7.5% p.a. The same ought to have



been awarded @ 12% p.m. It is accordingly prayed that the present Appeal be allowed; and the compensation awarded to the appellants be enhanced.

5. No other argument is raised on behalf of the appellants.
6. I have heard Id. Counsel and perused the case file in detail.
7. I find no merit whatsoever in the submissions made on behalf of the appellants. The pleaded case of the claimants as recorded in para 2 of the impugned Award reads as follows: -

“... .. On 28.8.2020, Braham Pal (since deceased) alongwith his sister-in-law Kiran was coming from Ambala towards his village Tangore while driving motorcycle No.HR-54C-4740 at a moderate speed at his correct left hand side of the road and Kiran was travelling as a pillion rider. They were followed by his brother Mukesh Kumar on another motorcycle. At about 3.00 pm, when Braham Pal reached near Adesh Hospital, Mohri, in the meanwhile the offending truck bearing registration No.HP-12D-8050 came from behind at a very fast speed and in rash and negligent manner being driven by respondent No.1 Yoginder Singh and struck against the motorcycle of Braham Pal from behind without blowing any horn. As a result, Braham Pal and Kiran fell down and received multiple, serious and grievous injuries on their head and other parts of the body. This accident took place due to sole rash and negligent driving of offending Truck by respondent No.1. After the accident, both the injured were shifted to Adesh Hospital, Mohri, where Braham Pal was declared dead by the doctors. On the basis of statement of Mukesh Kumar, FIR No. 471 dated 28.8.2020 under Sections 279, 337, 304-A of IPC was registered in Police Station



Shahabad against the respondent No.1. Postmortem of deceased Braham Pal was conducted at LNJP Hospital, Kurukshetra on 29.8.2020.

Withal, it was pleaded that the deceased was only bread earner of the family and he was approximately 35 years of age at the time of accident and he was carpenter and running dairy business and was earning Rs.40,000/ per month."

8. It has firstly been contended by the appellants that the deceased was working as a carpenter and was also doing business of dairy farming therefore, income ought to have been taken as ₹40,000/- p.m. However admittedly, appellants had failed to produce any evidence whatsoever to prove the alleged income of the deceased. Only salary certificate Ex.P8 has been produced; without any other proof of employment. Even no proof of income from dairy business has been produced. In these circumstances, I find no error in the income of ₹9,458/- p.m. as assessed by learned Tribunal on the basis of the relevant Notifications issued by the Government under the Minimum Wages Act.

9. It has next been contended on behalf of the appellants that future prospects ought to have been added @ 100%. Needless to say, the said contention is ludicrous. The age of the deceased was proved to be 39 years on the basis of his Aadhar Card. As such, addition of 40% towards future prospects has been correctly made. Further given the fact that there are 5 claimants, deduction of 1/4th towards personal expenses, has been correctly made. As age of the deceased was 39 years old, multiplier



of 15 has also been correctly applied. Under the conventional heads, claimants have been awarded ₹40,000/- each towards spousal, parental and filial consortium as claimant No.1 as PW1 has admitted that claimant No.5/father-in-law of claimant No.1 had expired on 28.09.2020. Further ₹16,500/- each towards funeral expenses, and loss of estate has been awarded. Accordingly, Learned Tribunal has calculated the compensation in the following manner: -

1.	Monthly Income of the deceased	₹9548/-
2.	Annual Income of the deceased	₹1,13,496/- (9458 x 12)
3.	Future Prospects @ 40% (since deceased was 39 years of age)	₹45,398.40 $\frac{(113496 \times 40)}{100}$
4.	Total Annual Income	₹113496 + 45398 = 1,58,894/-
5.	Deduction for personal and living expenses (1/4th as the deceased is survived by 4 dependents)	₹158894 x 1/4 = 39,723.5/-
6.	Annual dependency	158894-39723 = 1,19,171/-
7.	Multiplier	15
8.	Total dependency	119171 x 15 = 17,87,565/-
9.	Loss of Estate	₹16,500/- (10% enhancement as per Pranay Sethi's case (supra) every 3 years)
10.	Funeral Expenses	₹16,500/- (10% enhancement as per Pranay Sethi's case (supra) every 3 years)
11.	Loss of Consortium (Spousal, Parental and filial) 44,000 x 4	₹1,76,000/-
12.	Total compensation	₹19,96,565/-

10. 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.

11. Accordingly, the present appeal is hereby **dismissed**.

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

25.08.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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