

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****231****FAO-5332-2018(O&M)****Date of decision: 22.04.2026****Smt. Pooja Devi & Others****...Appellant(s)****Vs.****Vijay Singh & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. J.P. Sharma, Advocate
for the appellants.

Mr. Anshul Sharma, Advocate
for respondent No.3.

*********NIDHI GUPTA, J.****CM-17738-CII-2018**

This is an application under Section 5 of Limitation Act for condonation of delay of 38 days in filing the appeal.

After going through the contents of the application, which is supported by affidavit of the appellant No.1, the same is allowed subject to all just exceptions and delay of 38 days in filing the present appeal is condoned.

MAIN CASE

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.85,82,767/- awarded by the Motor Accident Claims Tribunal, Narnaul (hereinafter 'the learned Tribunal') vide



Award dated 30.01.2018 passed in MACT Case No.97 dated 19.05.2016 filed under Section 166 of Motor Vehicles Act (hereinafter “the Act”). The 4 claimants are the widow, two minor children, and mother of deceased Pawan Kumar, who was 28 years old at time of accident.

2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that the deceased Pawan Kumar had died due to the injuries suffered by him in a motor vehicular accident that took place on 21.04.2016 due to the rash and negligent driving of Trola bearing registration No.HR-66B-6066 (hereinafter “the offending vehicle”) being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3. The said compensation has been awarded along with interest @ 9% per annum. Respondents were held jointly and severally liable for payment of compensation amount.

3. However, the learned Tribunal has made a deduction of 50% towards contributory negligence on part of the deceased as the accident in question was caused due to the head-on collision between the motorcycle bearing registration No.HR-35G-5741 being driven by the deceased along with his cousin Umesh Singh, who was pillion riding behind the deceased; and the offending Trola. Accordingly, compensation of Rs.42,91,383/- has been awarded.



4. Learned counsel for the appellants seeks enhancement of compensation by submitting that at the time of accident, the deceased was serving in the Indian Army and drawing salary of Rs.37,000/-. It is submitted that the deceased was posted in Leh-Ladakh and was therefore, receiving extra allowances which have not been taken into account by the learned Tribunal while assessing income of the deceased. It is submitted that the said allowances received by the deceased were part of his income/salary and ought to have been taken as such.

5. It is further submitted that deduction of 1/4th has been wrongly made towards personal expenses. Even the finding of the learned Tribunal in respect of the contributory negligence of the deceased is incorrect. It is accordingly prayed that the present appeal be allowed and compensation of Rs.2 crore along with interest be granted to the appellants; and finding of contributory negligence, be set aside.

6. Per contra, learned counsel for the respondent No.3 opposes the submissions advanced on behalf of the appellants and submits that the impugned Award suffers from no error; and the present appeal deserves to be dismissed.

7. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellants.



8. Perusal of record of the case shows that it was the pleaded case of the appellants before the Tribunal that deceased was serving in the Indian Army as Naik and posted in Leh-Ladakh at the time of accident. It was submitted that deceased was getting monthly salary of Rs.56,800/- at the time of accident. In support of their contention, the appellants had examined PW4 Havildar Manoj Kumar No.6943680A, who had brought the Salary Record of the deceased; and had proved Salary Certificate of the deceased as Ex.PW4/B. Findings of the learned Tribunal in this regard are as follows:-

*“13. Perusal of statement of account for the month ending 02/2016 Ex.PW4/B shows that Rs.19,775/- has been shown towards the arrears/recovery of pay and allowances in the total credits and this fact has also been admitted by PW4 in his cross-examination and the same requires to be deducted from the total salary of the deceased to the tune of Rs.56,868 and thus after deducting the same the monthly salary of the deceased comes to Rs.37,093/- No doubt Pooja Devi the widow of the deceased is getting monthly pension to the tune of Rs.15,300/- per as evident from the statement of account Ex.RW1/A, duly proved by RW1 Sandeep Kumar, Assistant, State Bank of India, Ateli Mandi. The amount, if any, received by Pooja Devi the widow of Pawan Kumar on account of his death and the family pension being received by her cannot be deducted from the income of deceased while calculating the dependency compensation in view of law laid down by Hon'ble Supreme Court of India in **Helen C. Rebello (Mrs) & Ors Vs. Maharashtra State Road Transport Corporation & Anr 1998(4) RCR Civil 177***



*relied upon by Hon'ble Punjab and Haryana High Court in **Daljeet Kaur & Ors Vs. Avtar Singh & Ors 2017 (4) Law Herald 3078...**”*

9. As such, the learned Tribunal had assessed income of the deceased as Rs.37,093/- for cogent reasons and after examining every aspect of the matter. I find no error in the same. Learned counsel for the appellants has been unable to distinguish the aforesaid judgments relied upon by the learned Tribunal while assessing income of the deceased.

10. Further, age of the deceased was determined to be 28 years at the time of accident on the basis of his MLR (Ex.PW3/C) and Post-Mortem Report (Ex.PW3/B); as also on the basis of other documentary evidence on record such as his Driving Licence as Mark PA and Middle Standard Examination Certificate (Mark PB) wherein date of birth of the deceased is mentioned as 15.03.1988. Accordingly, the learned Tribunal had made an addition of 50% towards future prospects; and correctly applied multiplier of 17. Further, as there were 4 claimants, the learned Tribunal has made a deduction of 1/4th towards personal expenses. Under the conventional heads, the learned Tribunal has awarded Rs.15,000/- towards loss of estate; Rs.15,000/- towards funeral expenses; and Rs.40,000/- towards loss of consortium; thereby granting total compensation of Rs.85,82,767/- in the following manner:-



Head	Amount
Income	Rs.37,093/- per month
Addition of 50%	Rs.18,546/-
Deduction of 1/4 th	Rs.4636/-
Monthly dependency	Rs.13,909/-
Annual dependency	Rs.1,66,914/-
Multiplier of 17	Rs.1,66,914/- x 17 = Rs.28,37,538/-
Loss of estate	Rs.15,000/-
Loss of consortium to claimant No.1	Rs.40,000/-
Funeral expenses	Rs.15,000/-
Total	Rs.85,82,767/-
Deduction of 50% towards contributory negligence	Rs.42,91,383/-

11. From the above facts, it is clear that a very fair and just compensation has been awarded to the claimants. Nothing whatsoever has been shown to this Court that would merit enhancement of the compensation. 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 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.

12. Now coming to the question of contributory negligence, it is not disputed by learned counsel for the appellants that the accident in question was a head-on collision between the motorcycle being driven by the deceased and the offending trolly. Umesh Singh eyewitness who was pillion riding behind the deceased at the time of accident has appeared before the learned Tribunal as PW1 and has also admitted that the accident was a head-on collision. Relevant findings of the learned Tribunal in this regard are in Para 11 of the impugned Award, which is as under:-

"11. Learned counsel for the respondent No.3-insurance company has submitted that it was a head on collision and this tribunal also finds force in this contention as Umed Singh on whose statement the FIR was registered when stepped into witness box as PW1 has specifically deposed in his cross-examination that it was a head on collision. The site plan Ex.P3 has also indicated the place of accident at Khor Mor and the point A has been shown as place of the accident and the point A in the site plan has also been shown in the middle of the road and thus from the cross- examination of PW1 Umed Singh as well as the site plan Ex.P3 this tribunal is of the view that it was a head on collision, so, it is a clear cut. case of contributory negligence and negligence of both Pawan Kumar who was driving the motorcycle pulsar bearing registration No.HR-35G-5741 and the respondent No.1 Vijay Singh who was driving container/truck bearing registration No,HR-66B-6066 is held in



the ratio of 50:50. Accordingly this issue is decided partly in favour of the petitioners.”

13. Nothing has been shown to this Court by the Id. counsel for the appellants to countenance the above said findings. The above view is supported by judgment of the Hon’ble Supreme Court in **Bijoy Kumar Dugar v. Bidyadhar Dutta, (SC) : Law Finder Doc ID # 119539**, wherein it is held that:-

“A. Motor Vehicles Act, 1988, Section 168 - Fatal motor accident - Contributory negligence - Head on collision between car and bus - Death of driver of car - Drivers of both the vehicles should be held responsible to have contributed equally to accident when there is head on collision - Insurance company of bus to pay half of the compensation awarded by Tribunal - Car was not insured.”

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

15. In view of the above, present appeal stands **dismissed**.

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

22.04.2026

Sunena

(Nidhi Gupta)
Judge

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