IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-1818-2015 (O&M)

PUNJAB STATE THROUGH
ITS CHIEF SECRETARY AND ANOTHER

. . . . Appellants

Vs.

Pooja Goyal and others

. . . . Respondents

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Reserved on: 09.09.2026
Pronounced on: 11.09.2026
Pronounced Fully/Operative Part: Fully

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CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

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Present: - Mr.Ravinder Singh Rawal, AAG Punjab, for the appellants.

Mr.Harinder Sharma, Advocate, for
Mr.Ajay Kumar Chaudhary, Advocate,
for respondent Nos.1 to 4.

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DEEPAK GUPTA, J.

This appeal has been preferred by the owners of offending bus bearing registration No. PB-29F-9212, assailing the award dated 10.07.2014 passed by the learned Motor Accidents Claims Tribunal, Faridkot, whereby the claim petition preferred by the widow, minor son and parents of deceased Amit Goyal under Section 166 of the Motor Vehicles Act, 1988, was allowed and compensation of ₹59,08,078/- was awarded against the respondents jointly and severally, along with interest.

2. The Tribunal recorded a categorical finding that the accident had occurred on account of rash and negligent driving of the offending bus.

3. The challenge in the present appeal is confined to the quantum of compensation. Learned counsel for the appellants does not dispute the age of the deceased, which was 29 years at the time of the accident. The main grievance is with regard to the income assessed by the Tribunal.

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4. The case of the claimants before the Tribunal was that the deceased was working with M/s Tota Ram Commission Agent Private Limited and was also carrying on business in sale and purchase of commodities through MCX. In support of his income, the claimants examined AW2 Pawan Kumar, Accountant of the said firm, who proved the salary certificates Ex.A3 and Ex.A4. The claimants also produced the income-tax returns of the deceased. The Tribunal relied upon Ex.A2 and assessed the annual income at ₹4,91,507/-. The evidence noticed by the Tribunal also records the deceased to have been carrying on business apart from his employment.

5. Learned counsel for the appellants submits that Ex.A1, being the income-tax return for the assessment year 2011-12, was filed by the deceased himself during his lifetime and disclosed total income of ₹3,99,639/-, whereas Ex.A2, for the assessment year 2012-13, was filed on 21.03.2013, after his death. According to learned counsel, the latter return ought not to have been relied upon, particularly when no computation sheet or supporting material regarding the business income was produced.

6. This Court has considered the submissions made by learned counsel for the parties and has perused the record.

7. The main controversy relates to the income of the deceased, which is to be taken for determining the loss of dependency. The claimants had pleaded that deceased Amit Goyal was working with M/s Tota Ram Commission Agent Private Limited and was also carrying on business in sale and purchase of commodities through MCX. In support of his employment, AW2 Pawan Kumar, stated to be the Accountant of the aforesaid firm, proved the salary certificates Ex.A3 and Ex.A4. The claimants also produced two income-tax returns of the deceased, namely Ex.A1 and Ex.A2.

8. Ex.A1 is the income-tax return for the assessment year 2011-12 and was admittedly filed by the deceased himself during his lifetime on 17.03.2012. It discloses total income of ₹3,99,629/-. From the said amount, deductions of ₹1,05,395/- were claimed under Section 80 of the Income-tax

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Act, resulting in taxable income of ₹2,94,230/-, upon which tax payable was shown as ₹13,423/-.

9. Ex.A2 is the income-tax return for the assessment year 2012-13. It discloses total income of ₹5,16,897/-, deductions of ₹90,395/- under Section 80, taxable income of ₹4,26,500/- and tax payable of ₹24,650/-. The said return was filed on 21.03.2013, i.e. after the death of Amit Goyal in the accident dated 27.12.2012.

10. Learned counsel for the appellants submits that Ex.A1 deserves preference over Ex.A2 since the former was filed by the deceased himself during his lifetime, whereas Ex.A2 was filed after his death. It is further submitted that there is no computation sheet or supporting account material establishing the source of the increase in income reflected in Ex.A2 and, therefore, the latter return ought not to have been relied upon by the Tribunal.

11. It is true that a posthumously filed income-tax return calls for careful scrutiny. However, the mere fact that the return was filed after the death of the deceased cannot, by itself, constitute a valid ground for discarding it. The evidentiary value of such return has to be assessed in the context of the other material available on record, including the income disclosed in the return filed by the deceased during his lifetime. The Hon'ble Supreme Court in ***Nidhi Bhargava v. National Insurance Co. Ltd., 2025 SCC OnLine SC 872***, and thereafter in ***Sayar & Ors. v. Ramkaran & Ors., Law Finder Doc Id #2812527,*** has clarified that a return filed posthumously can be taken into consideration, subject to judicial scrutiny. The return for the preceding year constitutes an important benchmark in assessing the subsequent return, though business income cannot mechanically be presumed to remain static.

12. In the present case, Ex.A1 provides an important benchmark. It was filed by the deceased during his lifetime and disclosed total income of ₹3,99,629/-. Ex.A2, pertaining to the immediately succeeding assessment year, records total income of ₹5,16,897/-. Thus, there is an increase in the income disclosed from one assessment year to the next. The increase, by itself, cannot

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be regarded as so inherently improbable as to render Ex.A2 wholly unreliable, particularly when the claimants had also led evidence regarding the deceased's employment and his alleged business activity.

13. At the same time, since Ex.A2 was filed after the death of the deceased and the record, as noticed by learned counsel for the appellants, does not contain detailed material establishing the components or source of the business income reflected therein, this Court would be required to exercise appropriate caution rather than mechanically accept the figure shown in Ex.A2.

14. The subsequent assessment year return cannot, therefore, be rejected merely on the ground of its posthumous filing. Equally, it would not be appropriate to accept every figure appearing therein without examining the preceding return and the supporting evidence. The approach has to be one of arriving at a fair and reasonable assessment of the income which the deceased was actually earning at the time of the accident.

15. On a cumulative consideration of Ex.A1, Ex.A2 and the evidence regarding the employment of the deceased, this Court finds that Ex.A2 can be taken into consideration for determining the income. The taxable income disclosed therein is ₹4,26,500/- and the tax payable is ₹24,650/-. Consequently, the annual income available for the purpose of computation of dependency, after accounting for the income-tax liability disclosed in Ex.A2, would be ₹4,01,850/-.

16. The contention of the appellants that the income should necessarily be restricted to the figure disclosed in Ex.A1, therefore, cannot be accepted. At the same time, the figure of ₹4,91,507/- adopted by the Tribunal does not correctly represent the income disclosed in Ex.A2 after accounting for the tax liability. The annual income, on the basis of Ex.A2, would work out to ₹4,01,850/-, after deducting the tax payable of ₹24,650/- from the taxable income of ₹4,26,500/-.

17. The deceased was aged 29 years at the time of the accident. Although the accident had taken place on 27.12.2012, the principles

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subsequently enunciated by the Hon'ble Supreme Court in ***National Insurance Company Limited v. Pranay Sethi, (2017) 16 SCC 680***, are required to be kept in view while examining the question of just compensation. The deceased being below 40 years of age, an addition of 40% towards future prospects would be warranted.

18. Accordingly, on the annual income of ₹4,01,850/-, addition of 40% towards future prospects would bring the annual income to ₹5,62,590/-. Since the deceased left behind his widow, minor son and both parents, deduction of one-fourth towards his personal and living expenses would be appropriate. Applying the multiplier of 17, having regard to his age of 29 years, the loss of dependency would work out to ₹71,73,023/-.

19. Likewise, having regard to the principles laid down in ***Pranay Sethi (Supra)*** and the subsequent recognition of spousal, parental and filial consortium, the widow, minor son and both parents would be entitled to consortium individually. Since the accident occurred on 27.12.2012, consortium is taken at ₹40,000/- for each claimant, aggregating to ₹1,60,000/-. The amounts towards loss of estate and funeral expenses are taken at ₹15,000/- each.

20. Thus, on a computation applying the principles subsequently settled by the Hon'ble Supreme Court, the compensation would work out to ₹73,63,023/-, which is higher than the sum of ₹59,08,078/- awarded by the learned Tribunal.

21. The aforesaid computation, however, does not by itself conclude the claimants' entitlement to enhancement in the present proceedings. The question whether such enhanced amount can be granted at this belated stage requires separate consideration.

22. The award was passed on 10.07.2014. The claimants did not challenge the quantum of compensation by filing an appeal or cross-objections. It is only in the year 2024, nearly ten years after the award, that they filed **CM No.21308-CI-2024** under Section 151 CPC seeking enhancement.

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23. The power of the Court to award just compensation cannot be disputed. However, the existence of such power does not mean that a claimant can, after allowing the statutory period for challenging the award to expire and thereafter remaining silent for almost a decade, reopen the quantum merely by invoking the inherent jurisdiction of the Court under Section 151 CPC.

24. The decision in ***Surekha and others v. Santosh and others, (2021) 16 SCC 467,*** relied upon by learned counsel for the claimants, undoubtedly emphasizes the obligation of the Court to award just compensation and cautions against adopting a hyper-technical approach. However, the said judgment cannot be construed as laying down that the requirement of challenging an award within the prescribed period can be completely disregarded in every case, irrespective of the length of delay and the absence of any explanation therefor.

25. In the present case, the claimants were fully aware of the award dated 10.07.2014 and the quantum of compensation awarded thereunder. They did not prefer any appeal against the quantum, nor did they file any cross-objections. No explanation has been furnished for the extraordinary delay of nearly ten years in seeking enhancement. Permitting the claimants to reopen the quantum at this stage merely by filing an application under Section 151 CPC would, in effect, enable them to circumvent the statutory remedy and the limitation governing an appeal against the award.

26. The Court is conscious that the object of the Motor Vehicles Act is to ensure just compensation to the victims of motor accidents. At the same time, the principles of finality of litigation and reasonable diligence cannot be altogether disregarded. The beneficial nature of the legislation does not confer upon a claimant an unrestricted right to seek enhancement at any point of time, without accounting for the delay in challenging the award.

27. In these circumstances, although the computation made hereinabove establishes that, on application of the principles subsequently settled in ***Pranay Sethi (Supra)*** and the other applicable judgments, the

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compensation could work out to ₹73,63,023/-, but this Court is not inclined to grant the consequential enhancement of ₹14,54,945/- at this belated stage. The claimants, having failed to challenge the award for nearly ten years and having invoked the jurisdiction of this Court for enhancement only in 2024 by way of an application under Section 151 CPC, cannot be permitted to derive the benefit of such belated challenge.

28. Consequently, the enhancement sought by the claimants through **CM No.21308-CI-2024** is declined. The compensation awarded by the learned Tribunal at ₹59,08,078/- is maintained.

29. For the same reason, the question of interest on the enhanced amount does not arise. The amount awarded by the learned Tribunal shall continue to carry interest in terms of the award dated 10.07.2014.

30. As regards the appeal filed by the owners, their challenge to the assessment of income on the ground that Ex.A2 was liable to be discarded merely because it was filed after the death of the deceased has already been rejected for the reasons recorded hereinabove. No ground has consequently been made out for reducing the compensation awarded by the Tribunal.

31. Accordingly, the appeal filed by the owners is dismissed, and CM No.21308-CI-2024 filed by the claimants seeking enhancement is also dismissed. The award dated 10.07.2014 shall remain undisturbed. All pending application(s), if any, stand disposed of accordingly.

(DEEPAK GUPTA)
JUDGE

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Whether Speaking/reasoned *Yes*
Whether reportable *No*

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