

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

FAO-4391-2015 (O&M)
(Claim Petition No.130-MACT)
Date of decision: 20.11.2015

Sunita and others

...Appellants

Versus

Jaipal and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.KS Dhanora, Advocate for the appellants

SNEH PRASHAR, J.

CM-14094-CII-2015

The present application under Section 5 of the Limitation Act has been filed for condonation of delay of 92 days in filing the appeal.

For the reasons enumerated in the application, the same is allowed. Delay of 92 days in filing the appeal is hereby condoned subject to all just exceptions.

Main appeal

The present appeal has been filed by the claimants-appellants, seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Hisar, vide award dated 6.10.2014, on account of death of Dilbag due to the injuries

sustained by him in a road side accident.

The submissions made by learned counsel for the appellant have been heard.

The only argument raised by learned counsel for the appellants is that the income assessed by learned Tribunal i.e. Rs.4000/- per month is on the lower side, whereas he was running a milk dairy and was engaged in other agricultural pursuits and was earning Rs.30,000/- per month.

It is proved on record that the death of Dilbag occurred due to a road side accident caused by respondent No.1- driver of the offending vehicle. He was 45 years of age at the time of accident. As contended by learned counsel, the deceased was earning Rs.30000/- per month by doing agricultural work and running a milk dairy, but no substantive or documentary evidence was produced by the appellants to prove their contention. The only evidence available was the ocular testimony of PW2 Sunita widow of the deceased and PW2 Ram Krishan. In such circumstances learned Tribunal rightly assessed the income of the deceased as Rs.4000/- per month which a casual labour was able to earn in the year 2012. As the deceased was 45 years of age and left behind three dependents, learned Tribunal deducted $\frac{1}{3}$ rd income of the deceased and applied multiplier of 14 in view of the law laid down by Hon'ble Supreme Court in **Sarla**

Verma and others vs. DTC and another 2009 ACJ 1298, warranting no intervention. Apart from this, learned Tribunal has awarded a sum of Rs.Two lacs to the widow on account of loss of consortium and loss of love and affection and Rs.Two lacs to both the girls on account of loss of love and affection and Rs.25,000/- on account of transportation and funeral expenses, which appears to be just and adequate.

In view of the above, there is no merit in the present appeal and as such, the same is hereby dismissed.

20.11.2015
gsv

(SNEH PRASHAR)
JUDGE