



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-3241-2023 (O&M)

Date of decision: 05.09.2025

Babita and another

...Appellant(s)

Vs.

Parveen Malik and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Navjot Singh, Advocate for the appellants.

Mr. Dinesh Kumar Prajapati, Advocate for
respondent No.3-Insurance Co.

NIDHI GUPTA, J.CM-11159-CII-2023

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 480 days in filing the accompanying appeal.

2. The reasons given by the applicant/appellants in the application seeking condonation of delay of 480 days are:-

"2. That infact the Appellant/ Claimant being a commoner was not aware of his right to file appeal before this Hon'ble Court, it is only when he had got in touch with the undersigned counsel, he was informed that he had the right to file the Appeal for enhancement.

3. That in fact, this Hon'ble High Court vide order dated 16.10.2019, have given liberty to the appellants to file an application before this Hon'ble Court if they have any grievance to express as such order was passed without giving notice to the present appellants."



3. It is misstated and misleading statement in para three of the above said application. Liberty to file appropriate application was granted in FAO no. 6276 of 2019 vide order dated 16.10.2019. Thus, the above said reasons do not constitute sufficient ground for condonation of extraordinary and inordinate delay of 480 days.

4. Hence, the present application is dismissed.

FAO-3241-2023 (O&M)

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.22,10,000/- awarded by the Motor Accident Claims Tribunal, Sangrur (hereinafter “the learned Tribunal”) vide Award dated 03.08.2019 passed in MACT Case No.19 dated 21.09.2018 filed under Section 166 of the Motor Vehicles Act, (hereinafter “the Act”). The 2 claimants are the parents of the deceased Sushil Kumar, who was about 19 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- Sushil Kumar had died due to the injuries suffered by him in a motor vehicular accident that took place on 31.08.2018 due to rash and negligent driving of a Trola bearing registration No.HR-38W-9678 (hereinafter “the offending vehicle”) being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. Ld. Tribunal awarded the above said compensation along with interest @ 9% per annum. All the respondents were held jointly and severally liable to pay the compensation amount.



3. Learned counsel for the appellants seeks enhancement of compensation by submitting that income of the deceased has been taken on the lower side as only Rs.10,000/-p.m. It is submitted that at the time of accident, deceased was working as a Contractor in Jas Trading Company, Bathinda and was earning Rs.35,000/- p.m. The deceased was also doing B.A. from Guru Nanak College Budhlada. Thus, income of the deceased deserves to be enhanced.

4. It is further submitted that there has been gross error by the learned Tribunal in the compensation awarded to the appellants which is very meagre. It is contended that the appellants, who are the parents of the deceased, were fully dependent on their son and had great expectations from him. Due to his sudden demise, they had suffered irreparable loss. It is accordingly prayed that the present Appeal be allowed; the Award be modified and compensation be enhanced.

5. *Per contra*, learned counsel for the respondent-Insurance Co. opposes submissions of the appellants and submits that there is no scope of enhancement of compensation awarded to the appellants as future prospects @ 50% have already been added by learned Tribunal, whereas the same should be 40%; and deduction of 1/3rd has been made, whereas the same ought to have been 50% as the deceased was a bachelor.

6. It is further pointed out that the respondent-Insurance Co. had filed an **FAO No. 6276-2019** titled as **Royal Sundram General Insurance Company Limited vs. Babita and others**; wherein vide order dated 16.10.2019, a Coordinate Bench of this Court had disposed of the



said FAO; thereby reducing compensation amount from Rs.22,10,000/- awarded to the appellants to Rs.15,42,000/- i.e. reduced to the extent of Rs.6,68,000/- keeping in view the above said facts. Hence, dismissal of the present Appeal is prayed for.

7. At this stage, it is admitted by learned counsel for the appellants that vide order 16.10.2019 passed in FAO no. 6276 of 2019, compensation payable to the appellants had been reduced. It is, however, submitted that a review application has been filed by the appellants against the said order dated 16.10.2019 which was passed without notice to the appellants and the review application is pending.

8. No other argument is raised on behalf of the parties. I have heard Id. Counsel and perused the case file in detail. I find no merit whatsoever in the submissions made on behalf of the appellants.

9. It was the case of the appellants before the learned Tribunal that the deceased was working as a Contractor and was also pursuing his studies in B.A. and was earning Rs.35,000/- p.m. However, the record shows that the appellants were unable to prove the above said income of the deceased as a Contractor. No documentary evidence to show his employment as a Contractor or any Income Tax Return to show the income of the deceased as Rs.35,000/- p.m. was brought on record. Although some receipts Ex.C14 to Ex.C20 were brought on file however, none of the said receipts indicated that the deceased was earning Rs.35,000/- p.m. Accordingly, learned Tribunal had taken income of the deceased as Rs.10,000/- p.m. and his annual income as Rs.1,20,000/-. As



pointed out by counsel for the respondent-Insurance Co., deduction of 1/3rd was made by Tribunal towards personal and living expenses; whereas in view of the admitted fact that the deceased was a bachelor, deduction of 50% was required to be made. Again, addition of 50% was made towards future prospects, whereas as per judgment of Hon'ble Supreme Court in "**Sarla Verma Vs. Delhi Transport Corporation**" **Law Finder Doc ID # 188882**, future prospects ought to have been added @ 40%. Age of the deceased was proven to be 19 years as per his Postmortem Report Ex.C1. Accordingly, learned Tribunal had correctly applied multiplier of 18. A sum of Rs.25,000/- has been awarded towards love and affection. Further, a sum of Rs. 25,000/- has been towards funeral expenses. Even if compensation under the conventional heads is altered, compensation awarded to the appellants would still be in excess of what is payable as per the structured formula laid down by the Hon'ble Supreme Court. Moreover, the appellants are pursuing review application in FAO-6276-2019. Thus, no ground is made out for enhancement of the compensation already awarded.

10. In view of the same, present appeal is hereby **dismissed**.

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

05.09.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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