

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****112****FAO-3814-2023(O&M)****Date of decision: 26.09.2025****Ms. Sunehri Devi & Others****...Appellant(s)****Vs.****Arun Kumar & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Monika Jangra, Advocate
for the appellants.

NIDHI GUPTA, J.
CM-12585-CII-2023

This is an application under Section 151 of the Limitation Act for condonation of delay of 453 days in re-filing the appeal.

The only ground on which condonation of such an extraordinary and inordinate delay of 453 days is sought, is contained in para 3 of the abovesaid application, which reads as follows: –

“3. That the Applicant has no legal Knowledge and she is not aware about the law of limitation as the Applicant was informed by her counsel that Appeal has been filed but there is requirement of Aadhar Card of all the Petitioners but she was not aware that it should be provided within time. When the matter was refilled. The counsel came to know that there is delay of 453 days has been occurred. Due to the above mentioned



reason the delay of 453 Days has occurred. which is not intentional and deliberate.”

The above cited reason is vague and does not constitute sufficient cause to condone extraordinary delay of 453 days in re-filing the appeal. Moreover, it is cardinal principle of law that delay of each day has to be explained. Further, the application is not accompanied by affidavit of the learned counsel for the applicants/appellants. As such, no ground is made out for condoning inordinate delay of 453 days. Present application accordingly stands **dismissed**.

MAIN CASE

Present appeal has been filed by claimants seeking enhancement of compensation of Rs.18,08,744/- awarded by the Motor Accident Claims Tribunal, Jind (hereinafter ‘the learned Tribunal’) vide Award dated 12.02.2020 passed in Claim Petition No.117 dated 31.08.2018 filed under Section 166 of the Motor Vehicles Act (hereinafter “the Act”). The 3 claimants are the 52-year-old mother, 50-year-old father, and 30-year-old sister of deceased Dinesh Kumar, who was 20-and-a-half years old at the 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 deceased Dinesh Kumar had died due to the injuries suffered by him in a motor vehicular accident that took place on 30.06.2018 due to the rash and negligent driving of vehicle bearing registration No.HR-69-C-



2838 (hereinafter “the offending vehicle”) being driven by respondent No.1, owned by respondent No.2; and insured by respondent No.3. The aforesaid compensation has been awarded along with interest @ 7.5% p.a. Respondents were held jointly and severally liable for payment of compensation.

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.8,500/- per month as that of an unskilled labourer. It is submitted that the deceased was running a Tuition Centre and was earning Rs.35,000/- per month. As such, income of the deceased ought to have been taken as that of a skilled worker as Rs.10,328/- per month; or at least as a semi-skilled worker as Rs.9,368/- per month. It is further submitted that deduction is on the higher side. Even amount granted under loss of consortium is on the lower side and ought to be Rs.1 lakh each. Rate of interest is only 7.5% per annum and the same should be 24% per annum. Learned counsel accordingly prays for enhancement of compensation.

4. No other argument is made on behalf of the appellants.

5. I have heard learned counsel and perused the case file in detail.

6. It was the pleaded case of the appellants before the learned Tribunal that the deceased was 22 years old and prior to the accident, he was pursuing Bachelor Degree in Science and was in final year. It was further pleaded that the deceased was running a Tuition Centre from which he was



earning Rs.35,000/- per month. Accordingly, compensation of Rs.40 lakh with interest @ 15% per annum was claimed.

7. However, the appellants were unable to produce any evidence in support of their above-said assertions. The appellants were unable to produce any authentic proof regarding the above-said occupation and income of the deceased to show that the deceased was earning anywhere close to Rs.35,000/- per month. The appellants had produced Mark Sheets of the deceased (Ex.P13 to Ex.P19) and Certificate (Ex.P12) from which it was evident that the deceased was a Below Average Student. After detailed examination of the evidence on record, the learned Tribunal has returned the following finding in this regard: -

“18...I do not find merit in the arguments of learned counsel for the petitioners because from the mark sheets of the deceased produced on record, it is apparent that deceased was below average student and as per mark sheet Ex.P15 of Bachelor of Science SEM-02 Exam May 2017, he got 204 marks out of 580, as per mark sheet of Bachelor of Science SEM-03 Exam Dec, 2017, Ex. P16, he got marks 148 out of 420 and as per mark sheet of Bachelor of Science SEM-04 Exam May, 2018, he got marks 204 out of 580 and in all the aforesaid exams, he got compartment in some of the subjects whereas in the authority supra, the deceased had achieved 10 grade points in three of the subjects and 9 in others in 10th standard examination.”

8. It was in this background that the learned Tribunal had assessed monthly income of the deceased as an unskilled labourer as



Rs.8,500/- per month, on the basis of relevant Minimum Wage Notification issued by the Government of Haryana. It has been contended by learned counsel for the appellants that income of the deceased ought to be taken as a skilled worker as Rs.10,328/- per month; or at least as a semi-skilled worker as Rs.9,368/- per month. However, in view of the above-said findings of the Tribunal and also in view of the fact that no Notification to the above effect has been produced by the appellants, I find no error in the income as assessed by the learned Tribunal.

9. Furthermore, as per Secondary Examination Certificate (Ex.P18) produced by the appellants, date of birth of the deceased was shown to be 02.09.1997. As such, on the date of accident i.e. 30.06.2018, the deceased was 20-and-a-half years old. Accordingly, the learned Tribunal had made an addition of 40% towards future prospects; thereby calculating monthly income to be Rs.11,900/- (Rs.8,500/- + 40% of Rs.8,500/-).

10. The learned Tribunal has made a deduction of $\frac{1}{3}$ rd towards personal expenses, keeping in view the fact that there were 3 claimants. However, it is my view that the learned Tribunal was in error in doing so as the deceased was a Bachelor, a deduction of 50% ought to have been made. Moreover, the unmarried sister of the deceased would first be dependent upon her 50-year-old father rather than on her 20-and-a-half years old deceased brother. The learned Tribunal had correctly applied multiplier of 18; and calculated compensation to be Rs.17,13,744/- (Rs.7,934/- x 12 x 18).



Under the conventional heads, the learned Tribunal has awarded Rs.15,000/- towards funeral expenses; Rs.40,000/- each to the claimants No.1 and 2/parents of the deceased towards filial consortium; thereby granting total compensation of Rs.18,08,744/-. No doubt, as per structured formula laid down by the Hon'ble Supreme Court, Rs.15,000/- also ought to have been granted towards loss of estate, however, keeping in view the fact that deduction of 50% ought to have been made, compensation in excess of what is admissible to the appellants as per law, has already been awarded to them.

11. Even otherwise, as per judgment of the Hon'ble Supreme Court in **(SC) SLP No.13931 of 2017** titled as **"New India Assurance Co. Ltd. Vs. Vinish Jain & Others"** Law Finder Doc ID # **977386**, it has been held that where difference in compensation is about 4 to 5 per cent only, it does not warrant interference by this Court as, such variation in compensation is within permissible limits.

12. This above-said judgment of the Hon'ble Supreme Court has been followed by the Kerala High Court in **"The Managing Director, Divisional Controller Versus Alikutty and Others"** Law Finder Doc Id # **1885188**. Relevant para 18 of the said judgment is reproduced below:-

"18. It is to be borne in mind, the accident occurred on 23,2,2019. It is more than 2 ½ years since the respondents 1 to 4 have been knocking at the doors of the Courts seeking compensation on account of the death of the bread-winner. It is trite law that the Tribunal is permitted to do some guess work and also exercise its



*discretion to fix the reasonable and just compensation, for which there cannot be any straightjacket formula based on mathematical precision. In **New India Assurance Company Vs. Vinish Jain and Others [(2018) 3 SCC 619]**, the Hon'ble Supreme Court has held that if the fixation of compensation is within permissible limits, the courts should normally not interfere with such awards".*

13. Above said view has been reiterated by the Kerala High Court in "**Reliance General Insurance Company Limited Vs. Adila and Others**", **Law Finder Doc ID # 1921609**, paras 16 and 17 of which read as under:-

"16. The other area of dispute is that the Tribunal after awarding compensation under the conventional heads has awarded Rs.75,000/- towards loss of love and affection and Rs.10,000/- awarded towards pain and sufferings.

*17. In **New India Assurance Co., Ltd v. Vineesh.J[2018 (3) SCC 619]**, the Hon'ble Supreme Court has held that the Appellate Court can permit variation of plus or minus 4 to 5 percent."*

14. A 3-Judge Bench judgment of the Hon'ble Supreme Court in the case of "**Reshma Kumari v. Madan Mohan (SC) 2013(5) Scale 160; Law Finder Doc ID # 421379**"; has held that: "*Motor Vehicles Act, 1988, Section 168 - Section 168 provides that amount of compensation awarded by the Claims Tribunal which appears to it to be just - The expression, 'just' means that the amount so determined is fair, reasonable and equitable by accepted legal standards and not a forensic lottery - Obviously 'just compensation' does not mean 'perfect' or 'absolute' compensation - The just compensation principle requires examination of the particular situation obtaining uniquely in an individual case."*



15. The present appeal accordingly stands **dismissed** on grounds of delay as well as on merits.

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

26.09.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No