



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-4344-2023 (O&M)
Date of decision: 08.08.2025

Shakuntla Devi

...Appellant(s)

Vs.

Ashu Kumar and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Anmol Sharma, Advocate for the appellant.

NIDHI GUPTA, J.

CM-14409-CII-2023

Prayer in this application filed under Section 5 of the Limitation Act read with 151 CPC is for condonation of delay of 283 days in refiling the accompanying appeal.

2. Heard.

3. For thereasons mentioned in the application, the same is allowed and the delay of 283 days in refiling the accompanying appeal is condoned.

CM-14412-CII-2023

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 80 days in filing the accompanying appeal.

2. Heard.



3. For the reasons mentioned in the application, which is duly supported by an affidavit of the applicant/appellant, the same is allowed and the delay of 80 days in filing the accompanying appeal is condoned.

FAO-4344-2023 (O&M)

The present appeal has been filed by the claimant No.1/ mother of the deceased, seeking enhancement of compensation of Rs.19,20,000/- awarded by the learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as “the learned Tribunal”) vide Award dated 03.12.2021 passed in MACP Case No. 51 dated 11.02.2019 filed under Section 166 of the Motor Vehicles Act, (hereinafter referred to as “the Act”). The 3 claimants before the learned Tribunal were the appellant/mother; the father, and the 32-year-old brother/performa respondents No. 3 and 4 herein, of the deceased Pankaj Kumar.

2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and evidence adduced before it concluded that the deceased- Pankaj Kumar had died due to the injuries suffered by him in a motor vehicular accident that took place on 13.12.2018 due to the rash and negligent driving of a Bus bearing registration No. UP11-T-6089 (hereinafter “the offending vehicle”) being driven by respondent No.1; and owned by respondent No.2. The Id. Tribunal awarded the above said compensation along with interest @ 7.5% per annum. Respondents No. 1 and 2 were held jointly and severally liable to pay the above said compensation.

3. Learned counsel for the appellant seeks enhancement of compensation by submitting that deduction of 50% towards personal expenses was incorrectly made. As the claimants were 3 in number, deduction of 1/3rd ought to have been made. It is submitted that nothing has been awarded on account of love and affection and transportation. It is further submitted that rate of interest has been awarded on the lower side as only 7.5% per annum; whereas the same should be 18% per annum. It is accordingly prayed that the impugned Award be modified, and compensation awarded to the appellant be enhanced.

4. No other argument is raised on behalf of the appellant. I have heard Id. counsel and perused the case file in detail.

5. I find no merit in the submissions made on behalf of the appellant. It is admitted by Id. counsel for the appellant that the deceased was a bachelor at the time of accident/death. Therefore, deduction of 50% towards personal expenses has been correctly made as per law. Learned Tribunal has further awarded compensation in the following manner: -

SR. NO.	HEADS	CALCULATION
1.	Monthly Income of the deceased	Rs.15,000/- per month
2.	Annual Income of the deceased	Rs.1,80,000/-(15,000 x 12)
3.	Future Prospects @ 40% (since deceased was 38 years)	Rs.72,000/-(1,80,000x 40/100)
4.	Deduction for personal and living expenses (1/2th as the deceased was unmarried)	(1,80,000+72,000 =2,52,000) 2,52,000 x 1/2 =1,26,000/-
5.	Multiplicand (multiplier of 15 as the age of the deceased	2,52,000-1,26,000= 1,26,000/- 1,26,000 x 15=18,90,000/-

	was 38 years)	
6.	Loss of estate	Rs.15,000/-
7.	Funeral expenses	Rs.15,000/-
	Total Compensation	Rs.19,20,000/-

6. As far as the argument of learned counsel for the appellant that nothing has been granted towards love and affection and transportation, the same is liable to be rejected. Admittedly, besides the appellant, the other 2 claimants were the father and the 32-year-old brother of the deceased, who were not financially dependent upon the deceased. The **Hon’ble Supreme Court in (SC) SLP No.13931 of 2017 titled as “New India Assurance Co. Ltd. Vs. Vinish Jain & Others”**, has 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.

7. 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".

8. 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."*

9. In view of the above, no ground is made out to interfere in the impugned Award.

10. Present appeal is hereby **dismissed**.

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

08.08.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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