IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

116 **FAO-4734-2022 (O&M)**
Date of decision: 28.10.2025

Janjali Sahoo and others
...Appellant(s)
Vs.
Rishi and others
...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Abhimanyu Kalsy, Advocate for
Mr. Rakesh Dhiman, Advocate for
the appellants.

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NIDHI GUPTA, J.

CM-14991-CII-2022

Prayer in this application filed under Section 5 of the Limitation Act read with Section 151 CPC is for condonation of delay of 3296 days in filing the appeal.

2. The only ground on which condonation of inordinate delay of 3296 days is sought is that the appellants reside in Orissa. It is submitted by learned counsel for the appellants that the appellants are very poor people and reside in Orissa and, therefore, the appeal could not be filed in time.

3. The above cited reason is vague and does not constitute sufficient cause to condone extraordinary delay of 3296 days in filing the present appeal. It is cardinal principle of law that delay of each day has to be explained. In this regard, reliance may also be placed upon recent judgment of the Hon'ble Supreme Court in **Civil Appeal No. 11794 of 2025**

titled as **Shivamma (Dead) by LRs Vs. Karnataka Housing Board and others, 2025 INSC 1104 decided on 12.09.2025.**

4. As such, no ground is made out for condoning inordinate delay of 3296 days. Present application accordingly stands dismissed.

<u>FAO-4734-2022 (O&M)</u>

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.11,95,000/- awarded by the learned Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as "the learned Tribunal") vide Award dated 28.05.2011 passed in MACT Case No. 107 dated 12.11.2010 filed under Section 166 of the Motor Vehicles Act, (hereinafter referred to as "the Act"). The six claimants are the 38-year-old widow; 20-year-old daughter; 17-year-old son; 14-year-old daughter; 12-year-old son; and 12-year-old son of the deceased Kamal Kant Sahoo, who was about 46 to 50 years old at the time of accident. The present appeal has been filed by claimants No. 1, 3 and 6; and claimants No. 2, 4 and 5 are the performa respondents No. 4 to 6 herein.

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-Kamal Kant Sahoo had died due to the injuries suffered by him in a motor vehicular accident that took place on 02.09.2010 at around 11:00 a.m. due to the rash and negligent driving of a Tavera Car bearing registration No.DL-3CAJ-9687 (hereinafter "the offending vehicle") being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. The Tribunal awarded the above said compensation

along with interest @ 7.5% per annum. All the respondents were held liable to pay the said compensation jointly and severally.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that the income of the deceased has been taken on the lower side as only Rs.7,500/-p.m. It is submitted that the deceased was working as rikshaw puller. It has been proved by the appellants that the deceased was earning Rs.15,000/- p.m. As such, income should have been taken as Rs.15,000/-p.m. It is further submitted that multiplier of 13 has been wrongly applied and the same should be 14. Even nothing has been awarded on account of future prospects, and less compensation has been awarded under transportation and last rites. He accordingly prays for modification of impugned Award, and enhancement of compensation.

4. No other argument is raised on behalf of the appellants. I have heard ld. counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellants.

5. Perusal of the record of the case shows that it was the pleaded case of the appellants that the deceased was 40 years old and rikshaw puller by profession and earning Rs.15,000/-p.m. By way of evidence, the appellants had produced the old bank passbook of the claimant No.1/widow as Ex.P9 and new passbook Mark-D. A perusal of which showed that every month there was a deposit being made ranging from Rs.4,000/- to Rs.9,000/-, the average of which came to Rs.5,500/- p.m. In the new bank passbook Mark-D, average of 6 months' deposits

from 25.01.2010 to 16.08.2010 came to be Rs.7,500/- p.m. there were some months in between when no deposit was made in the passbook of the claimant no.1. Accordingly, learned Tribunal had correctly taken income of the deceased as Rs.7,500/- p.m. Nothing has been shown by the appellant to this Court to show that deceased was earning more. These deposits were made by the deceased from Gurgaon and were withdrawn by claimants at Orissa to meet the household expenses.

6. Thus, monthly income of the deceased was correctly taken as Rs.7500/– per month; which comes to Rs.90,000/- p.a. Further, the age of the deceased was taken to be 46 to 50 years on the basis of his Postmortem Report Ex.P4 and his medical record Ex.P1 and Ex.P2. Accordingly, multiplier of 13 has been correctly applied; thereby calculating compensation of Rs.11,70,000/- (Rs.90,000 x 13). Learned Tribunal had further awarded Rs.5,000/- for treatment expenses (Ex.P3); Rs.20,000/- for transportation and last rites funeral expenses; thereby granting total compensation of Rs.11,95,000/-.

7. Argument of the appellants that nothing has been awarded by way of future prospects is liable to be rejected in view of three-Judge Bench judgment of the Hon'ble Supreme Court in **"Reshma Kumari v. Madan Mohan (SC) 2013(5) Scale 160; Law Finder Doc ID # 421379;** wherein after discussing the judgment in case of "**Sarla Verma Vs. Delhi Transport Corporation" (2009) AIR (SC) 3104 Law Finder Doc ID # 188882** in minute detail, learned Apex Court had held as follows:-

*"F. Motor Vehicles Act, 1988, Sections 166 and 163A - Death of person in motor accident who had a permanent job - What should be the addition to income for future prospects - Method of addition of income towards future prospects as stated in which **Sarla Verma's case (2009(3) RCR (Civil) 77)** approved which is reiterated below :-*

(i) An addition of 50% of actual salary be made to the actual salary income of the deceased towards future prospects where the deceased had a permanent job and was below 40 years and the addition should be only 30% if the age of the deceased was 40 to 50 years and no addition should be made where the age of the deceased is more than 50 years.

(ii) Where annual income is in the taxable range, the actual salary shall mean actual salary less tax.

(iii) Where deceased was self employed or was on a fixed salary without provision for annual increments, the actual income at the time of death without any addition to income for future prospects will be appropriate - A departure from the above principle can only be justified in extraordinary circumstances any very exceptional cases. 2009(3) RCR (Civil) 77, Approved.

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*35. With regard to the addition to income for future prospects, in **Sarla Verma,** this Court has noted earlier decisions in **Susamma Thomas, Sarla Dixit** and **Abati Bezbaruah** and in paragraph 24 of the Report held as under:*

> *"24. …… In view of the imponderables and uncertainties, we are in favour of adopting as a rule of thumb, an addition of 50% of actual salary to the actual salary income of the deceased towards future prospects, where the deceased had a permanent job and was below 40*

years. (Where the annual income is in the taxable range, the words "actual salary" should be read as "actual salary less tax"). The addition should be only 30% if the age of the deceased was 40 to 50 years. There should be no addition, where the age of the deceased is more than 50 years. Though the evidence may indicate a different percentage of increase, it is necessary to standardise the addition to avoid different yardsticks being applied or different methods of calculation being adopted. Where the deceased was self-employed or was on a fixed salary (without provision for annual increments, etc.), the courts will usually take only the actual income at the time of death. <u>A departure therefrom should be made only in rare and exceptional cases involving special circumstances.</u>"" **(Emphasis mine)**

8. The Apex Court in the case of **Reshma Kumari supra** has further gone on to hold 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."*

9. Keeping in view the above factual and legal position, no ground is made out to interfere in the impugned Award. The present Appeal is accordingly **dismissed** on merits, as well as on grounds of delay.

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

28.10.2025 **(NIDHI GUPTA)**
Divyanshi **JUDGE**

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