IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 12.09.2025

FAO-1465-2015(O&M)

Dharambir Singh

...Appellant(s)

Vs.

Rajesh @ Kala & Others

...Respondent(s)

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FAO-918-2019(O&M)

Geeta

...Appellant(s)

Vs.

Rajesh @ Kala & Others

...Respondent(s)

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CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ram Pal Verma, Advocate
for the appellant/claimant No.2
in FAO-1465-2015.

Mr. Amit Kumar Goyal, Advocate
for the appellant/claimant No.1
in FAO-918-2019.

Mr. D.K. Prajapati, Advocate
for respondent No.3/Insurance Company
in both cases.

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NIDHI GUPTA, J.

CM-3041-CII-2019 IN FAO-918-2019

Present application under Section 5 of the Limitation Act read with Section 151 CPC is filed seeking condonation of **delay of 1846 days** in filing the present appeal.

It is submitted by learned counsel for the applicant that the applicant/appellant was dependent on deceased and is under shock due to death of the deceased in the accident in question. After the passing of the Award, the claimant/appellant could not arrange for the resources for filing the case before this Hon'ble Court. The money in the present case is disbursed in 2017. Thereafter, she was under belief that appeal has been filed but in first week of January, when she contacted the trial Court counsel, she came to know that appeal in the present case has not been filed.

CM-4129-CII-2015 IN FAO-1465-2015

Present application under Section 5 of the Limitation Act is filed seeking condonation of **delay of 260 days** in filing the present appeal.

Learned counsel for the applicant submits that the delay is not intentional but is beyond the control of the appellant. The appellant belongs to village and he was not aware about the passing of the Award. When the appellant went to his counsel then he came to know that the case had already been decided. Then the appellant applied for the certified copy of the Award. Due to the death of his only son, the appellant was mentally disturbed and he was not in a position to file an appeal against the impugned Award. Moreover, the appellant is old man and very poor person. Due to lack of money, he could not file appeal against the impugned Award in time. The appellant could not arrange money in time to file the present appeal. After taking the Award money, the appellant reached Chandigarh on 09.08.2014 and engaged counsel for filing the appeal. Due to the above-mentioned reasons, the delay has occurred in filing the appeal.

Learned counsel for respondent No.3/Insurance Company vehemently opposes the submissions of the learned counsel for the applicants and submits that no ground is made out for condonation of afore-said inordinate and extraordinary delay in filing both the appeals. Accordingly, prayer for dismissal of the applications is made.

Heard.

The above cited reasons are vague and do not constitute sufficient cause to condone extraordinary delay of 260 and 1846 days in filing the afore-said appeals. It is cardinal principle of law that delay of each day has to be explained. Reliance may be placed upon judgment of this Court in **FAO-6193-2014 reserved on 21.04.2023 and pronounced on 01.05.2023 titled as "Pahlad & Another Vs. Jagatpal & Others",** wherein there was delay of 1087 days in which case the appeal was dismissed on grounds of delay. Again similar view has been taken in judgment of Hon'ble Supreme Court in **Union of India v. Nripen Sarma (SC) : Law Finder Doc ID # 252922;** judgment of High Court of Sikkim in **I.A. No.1 of 2020 in MAC App. No.11 of 2020 Law Finder Doc ID 1831873** titled as **"The Branch Manager, National Insurance Company Limited Vs. Dechen Ongmoo Lepcha and Others" decided on 19.03.2021,** and judgment of this Court in **Taro Devi v. Surinder Batra, (Punjab and Haryana) : Law Finder Doc ID #**

1495327; New India Assurance Company Ltd. v. Veeran, (Punjab And Haryana) : Law Finder Doc ID # 1577622; and **National Insurance Company Ltd. v. Smt. Sudesh Juneja, (Punjab And Haryana) : Law Finder Doc ID # 964131.**

As such, no ground is made out for condoning inordinate delay of 260 and 1846 days. Present applications accordingly stand **dismissed**.

MAIN CASE

FAO-1465-2015

Present appeal has been filed by the claimant No.2 seeking enhancement of compensation of Rs.6,41,400/- awarded by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the learned Tribunal') vide Award dated 11.10.2013 passed in MACT Case No.156 dated 16.01.2013 filed Section 166 read with Section 140 of the Motor Vehicles Act (hereinafter referred to as "the Act"). The 2 claimants are the widow and father of deceased Bittoo @ Partap.

FAO-918-2019

Present appeal has been filed by the claimant No.1/widow of the deceased seeking enhancement of compensation of Rs.6,41,400/- awarded by the learned Tribunal vide Award dated 11.10.2013 passed in MACT Case No.156 dated 16.01.2013 filed Section 166 read with Section 140 of the Act. The 2 claimants were the widow and father of deceased Bittoo @ Partap.

Both the above appeals are being disposed of by this common order as both appeals arise out of the same Award dated 11.10.2013; accident dated 07.12.2012; and parties, facts and alleged offending vehicle in both cases, are identical. For the sake of brevity, the parties are being referred to, and the facts are being drawn from FAO-1465-2015 titled as "Dharambir Singh Vs. Rajesh @ Kala & Others".

2. Learned Tribunal upon appraisal of pleadings and oral & documentary evidence adduced by the parties concluded that the deceased Bittoo @ Partap had died due to the injuries suffered by him in a motor vehicular accident that took place on 07.12.2012 at about 7 pm due to the rash and negligent driving of van bearing registration No.HR-69A-9893 (hereinafter referred to as "the offending vehicle") by respondent No.1. The offending vehicle was owned by respondent No.2 and insured by respondent No.3.

3. Learned counsel for the appellant(s) seeks enhancement of compensation by submitting that income of the deceased has been taken on the lower side as Rs.4,350/- per month; whereas as per the relevant Notification, it should be taken as about Rs.5,000/- per month. Moreover, nothing has been awarded by way of future prospects. It is admitted that multiplier of 18 has been correctly applied as deceased was 25 years old at the time of accident/death. Ld. counsel for the claimant No.2/father of the deceased further admits that claimant No.1/widow of the deceased has left

the matrimonial home and is no longer residing with the appellant because of which two separate appeals have been filed.

4. On merits, in FAO-918-2019, similar submissions are made by the learned counsel for claimant No.1/widow of the deceased. It is however submitted that he has no instructions as to whether claimant No.1 has left the matrimonial home or not.

5. Learned counsel for respondent No.3-Insurance Company opposes submissions made on behalf of the appellant(s) and submits that the impugned Award suffers from no error and the appeals be dismissed.

6. No other argument is made on behalf of the parties.

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

8. Even on merits, I find no ground is made out to interfere in the impugned Award. It was the pleaded case of the appellant(s) that the deceased was engaged in dairy farming and cattle rearing and earning Rs.15,000/- per month. However, no evidence was led by the appellant(s) to this effect to substantiate or prove income of the deceased. As such, the learned Tribunal had taken monthly income of the deceased as an unskilled labourer as per the rates settled by the Government of Haryana. It has been submitted by learned counsel for the appellant(s)/claimants that income of the deceased has been taken on the lower side as only Rs.4,350/- per month as unskilled labourer and the same ought to have been taken as Rs.5,000/- per month as per the relevant Minimum Wage Notification.

However, no such Notification has been produced by the appellant(s). As such, no error can be found in the income as assessed by the learned Tribunal.

9. Even the argument of the appellants in respect of future prospects deserves 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; Civil Appeal No.4646 and 4647 of 2009 decided on 02.04.2013,** 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 :-*
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> *(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) <u>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.</u> 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)

10. Thus, no legal error can be found in the impugned Award.

11. It is already admitted that multiplier of 18 has been correctly applied as deceased was 25 years old. Learned Tribunal had further awarded Rs.5,000/- towards funeral expenses, transportation and Rs.10,000/- for loss of estate. Out of total compensation of Rs.6,41,400/-, Rs.3,25,000/- was payable to the claimant No.1 and the remaining amount to claimant No.2. No ground is made out for enhancement of compensation.

12. In view of the above discussion, both the present appeals are **dismissed** on grounds of delay as well as on merits.

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

12.09.2025 **(Nidhi Gupta)**
Sunena **Judge**

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