IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

112 **FAO-2396-2023 (O&M)**
Date of decision: 15.12.2025

Kuldeep Kumar and another
...Appellant(s)
Vs.

Abhay Singh and others
...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Nitish Yadav, Advocate
for the appellants.
***

NIDHI GUPTA, J.

CM-8615-CII-2023

Prayer in this application filed 151 CPC is for condonation of delay of 74 days in re-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 No.1, the same is allowed and delay of 74 days in refiling the appeal is condoned.

CM-8617-CII-2023

Prayer in this application filed under Section 5 of the Limitation Act read with Section 151 CPC is for condonation of delay of 86 days in filing the appeal.

2. Heard.

3. For the reasons mentioned in the application which is duly supported by an affidavit of the applicant/appellant No.1 the same is allowed and delay of 86 days in filing the appeal is condoned.

FAO-2396-2023 (O&M)

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.16,82,800/- awarded by the Motor Accident Claims Tribunal, Rewari (hereinafter "the learned Tribunal") vide Award dated 01.04.2022 passed in MACP Case No. 434 dated 09.09.2021 filed under Section 166 of the Motor Vehicles Act, (hereinafter "the Act"). The 2 claimants are the 42-year-old husband; and 7-year-old minor son of the deceased Shakuntla, who was 35 years old at time of accident.

2. Brief facts of the case are that the ld. Tribunal on the basis of pleadings and evidence adduced before it concluded that the deceased-Shakuntla had died due to the injuries suffered by her in a motor vehicular accident that took place on 22.08.2021 due to the rash and negligent driving of a Car bearing registration No. HR-36R-2720 (hereinafter "the offending vehicle") being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. The Tribunal awarded above said compensation along with interest @ 9% per annum. All the respondents were held liable to pay the compensation jointly and severally.

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.9,000/- p.m. It is submitted that it was the

clear case of the appellants before the learned Tribunal that deceased was running a milk dairy and doing tailoring work from which she was earning Rs.25,000/- p.m. It is contended that accordingly income ought to have been taken as Rs.25,000/- p.m. Deduction of 1/3rd has also been illegally made. Even no future prospects have been awarded. It is accordingly submitted that the present Appeal be allowed; and compensation of Rs.50 lakhs alongwith interest @ 24% p.a. be awarded to the claimants.

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 whatsoever in the submissions made on behalf of the appellants.

5. As noted above, the pleased case of the appellants before the learned Tribunal was that the deceased was running a milk dairy and doing tailoring work, from which she was earning Rs.25,000/- p.m. However, appellants had failed to adduce any documentary evidence whatsoever to prove the alleged avocation or income of the deceased. Accordingly, learned Tribunal has assessed notional income of the deceased as Rs.9,000/- p.m. I find no error in the same.

6. Further, age of the deceased was proved to be 35 years, 4 months and 17 days on the date of accident on the basis of her Aadhar Card Ex.P11; wherein her date of birth is mentioned as 04.04.1986. Accordingly, learned Tribunal had made addition of 40% towards future prospects; thereby calculating annual income of the deceased as Rs.1,51,200/- (Rs.9,000 x 12 =Rs.1,08,000 + 40%). As there were 2 claimants, learned Tribunal had deducted 1/3rd towards personal

expenses; thereby calculating dependency to be Rs.1,00,800/- (Rs.1,51,200- Rs.50,400). It is my considered view that claimant No.1/42-year-old husband of the deceased could not have been held to be financially dependent upon the deceased. Learned Tribunal had correctly applied multiplier of 16; thereby calculating compensation to be Rs.16,12,800/- (Rs.1,00,800 X 16). Learned Tribunal had further awarded Rs.40,000/- towards loss of consortium; Rs.15,000/- towards loss of love and affection; and Rs.15,000/- towards funeral expenses. Accordingly, learned Tribunal has calculated the compensation in the following manner: -

Sr. No.	**Heads of claim**	**Calculation (in Rs.)**
(i)	Income	Rs.9,000 x 12= Rs.1,08,000/- per annum
(ii)	40% future prospects	Rs.43,200/-
(iii)	1/3rd deduction as personal expenses of the deceased	Rs.1,08,000 + Rs.43,200 =Rs.1,51,200/- after deduction 1/3rd comes to Rs.1,00,800/-
(iv)	Compensation after applying multiplier of 16	Rs.1,00,800/- x 16 = Rs.16,12,800/-
(v)	Loss of love and affection	Rs.15,000/-
(vi)	Transportation and funeral expenses	Rs.15,000/-
(vii)	Loss of consortium	Rs.40,000/-
	Total compensation	**Rs.16,82,800/-**

7. From the above facts, it is clear that a more than just and fair compensation has been awarded to the appellants. In fact, the claimant No.1 being husband of the deceased, deduction of 50% ought to have been made towards personal expenses; yet, the learned Tribunal has made a deduction of 1/3rd. Thus, nothing whatsoever has been shown to

this Court that would merit enhancement of the compensation granted to the appellants. No doubt Chapter-12 of the Act is a beneficial legislation yet, as cautioned by the Hon'ble Supreme Court, the same cannot be allowed to be treated as a windfall or a source of profit. Hon'ble Supreme Court in '**State of Haryana Vs. Jasbir Kaur' Law Finder Doc ID # 64043** and **'Divisional Controller K.S.R.T.C. Vs. Mahadeva Shetty' (2003) 7 SCC 197,** has held that the amount of compensation should be just and reasonable, it should neither be a bonanza nor a source of profit but at the same time it should not be a pittance. In case of **'General Manager, KSRTC Vs. Susamma Thomas and others' (1994) 2 SCC 176,** the Hon'ble Supreme Court has held that misplaced sympathy, generosity and benevolence cannot be the guiding factor for determining the compensation.

8. 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.

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

15.12.2025 **(NIDHI GUPTA)**
Divyanshi **JUDGE**

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