



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-7797-2017 (O&M)

Date of decision: 05.08.2025

Sudhama Devi

...Appellant(s)

Vs.

M/s. DD Khosla Transport Pvt. Limited and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

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

NIDHI GUPTA, J.**CM-25790-CII-2017**

Prayer in this application filed under Section 173 of Motor Vehicle Act, 1988 read with Section 5 of the Limitation Act is for condonation of delay of 555 days in filing the accompanying appeal.

The only reason given by the applicant/appellant in the present application seeking condonation of extraordinary delay of 555 days is that *"The appellant/applicant has no knowledge that an appeal can lie for the modification of award of the learned MACT. Therefore, it took her some time to contact her advocate and collect relevant papers to file this appeal."*

The same does not constitute sufficient reason for condoning the delay of 555 days in filing the appeal.

Hence, the present application stands **dismissed**.

**FAO-7797-2017 (O&M)**

The present appeal has been filed by the claimant No.2/ mother of the deceased, seeking enhancement of compensation of Rs.29,79,872/- awarded by the learned Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as “the learned Tribunal”) vide Award dated 03.11.2015 passed in MACT Case No. 43 dated 04.01.2014 filed under Section 166 of the Motor Vehicles Act, (hereinafter referred to as “the Act”). The 2 claimants before the learned Tribunal were the widow/performa respondent herein, and the appellant/mother of the deceased Neeraj Pathak. The Id. Tribunal had further directed that the claimants shall be entitled to 50% each of the compensation amount of Rs.29,79,872/-.

2. At the very outset, it may be pointed out that the present appeal is of the year 2017 and notice has not yet been issued in the same as the matter has been adjourned since 2018 till date, either at the request of; or due to non-appearance of learned counsel for the appellant.

3. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that the deceased-Neeraj Pathak had died due to the injuries suffered by him in a motor vehicular accident that took place on 03.09.2013 due to the rash and negligent driving of truck/trolla bearing registration No.PB-08-AZ-9841 (hereinafter “the offending vehicle”) being driven by respondent No.2; owned by respondent No.1; and insured by respondent No.3. The



learned Tribunal awarded the above said compensation along with interest @ 6% per annum. Respondent No. 3-Insurance Company was held liable to pay the said compensation.

4. Learned counsel for the appellant seeks enhancement of compensation on the ground that nothing has been awarded to the appellant under the head of cost of litigation. It is submitted that the appellant has been fighting her case since filing of the claim petition before the learned Tribunal on 04.01.2014. The appellant is still fighting for compensation. Therefore, she is rightly entitled for cost of litigation. It is further submitted that rate of interest has been awarded on the lower side as only 6% per annum; whereas the same should be 9% per annum. It is lastly submitted that nothing has been awarded by way of future prospects. It is also stated that the claimant No.1 has remarried and is not entitled to compensation. It is accordingly prayed that the impugned Award be modified, and compensation awarded to the appellant be enhanced.

5. No other argument is raised on behalf of the appellant.

6. I have heard Id. counsel and perused the case file in detail.

7. A perusal of the record shows that it was the pleaded case of the claimants in the claim petition that they were entitled to compensation of Rs.40 lacs alongwith interest @ 18% per annum from the date of accident till realization of the entire amount on account of death of Neeraj Pathak who died on 03.09.2013 due to rash and negligent driving of respondent No.2. It was stated in the claim petition that when



the accident occurred, the deceased was going from his house in connection with some personal work on his motorcycle bearing No. PB-10EA-3568 and his brother Dhiraj Pathak was following him on his bike. It was further pleaded that age of the deceased was about 25 years at the time of accident and he was employed with M/s. RB Industries, Focal Point, Ludhiana at the time of his death.

8. Although as per the post mortem report, age of the deceased was mentioned as 27-28 years and despite the fact that there was no conclusive proof of age of the deceased, learned Tribunal had taken age of the deceased as 25 years on the basis of the statement made in the claim petition. The employment of the deceased was proved from evidence of CW3 LR Sharma Manager of M/s.RB Industries, who deposed that deceased was employee in his firm and was drawing salary of Rs.15,250/- per month. Salary was proved from salary statement of the deceased for the month of August 2013 Ex.PW3/1 and September 2013 Ex.PW3/2. Employment of the deceased was proved from attendance register Ex.PW3/1 and PW3/2; certificate issued by their firm Ex.CW1/2. Accordingly learned Tribunal had taken income of the deceased as Rs.15,250/- per month. As the age of deceased was taken to be 25 years, learned Tribunal had applied multiplier of 18. As there were 2 claimants i.e. widow and mother, deduction of $\frac{1}{3}^{\text{rd}}$ had been made towards personal and living expenses of the deceased. Under the conventional heads, learned Tribunal had further awarded Rs.25,000/- towards funeral expenses, and Rs.1 lac as consortium.

9. It has been submitted by learned counsel for the appellant that nothing has been awarded towards future prospects. However, a perusal of the Award reveals that learned Tribunal has made an addition of 30% towards future prospects; and has calculated the compensation in the following manner: -

SR. NO.	HEADS	CALCULATION
1.	Salary/earning	Rs.15,250/- per month + 30% future prospectus = Rs.19,825/-
2.	1/3 rd deducted as personal expenses of the deceased	Rs.19,825/- minus Rs.6,608/- = Rs.13,217/-
3.	Compensation after multiplier of 18 is applied	Rs.28,54,872/-
4.	Loss of consortium	Rs.1,00,000/-
5.	Funeral expenses	Rs.25,000/-
	Total	Rs.29,79,872/-

10. From the above facts, it is clear that a very just and fair compensation has been awarded to the appellants. Nothing whatsoever has been shown to this Court that would merit enhancement of the compensation granted to the appellant. Accordingly, I find no case is made out that merits interference with the impugned Award. 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 and another**’ (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.

11. In view of the above, present appeal is **dismissed**.
12. Pending application(s) if any also stand(s) disposed of.

05.08.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

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