

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****115****FAO-5432-2022 (O&M)****Date of decision: 29.10.2025****Urmila and others****...Appellant(s)****Vs.****Guldev and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Sanjeev Majra, Advocate for
the appellants.

*********NIDHI GUPTA, J.****CM-18063-CII-2022**

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 5174 days in filing the appeal.

2. Perusal of the application shows that no sufficient cause is made out for condonation of extraordinary and inordinate delay of 5174 days. It has been submitted by learned counsel for the applicants that the delay has been occasioned on account of the fact that appellants were not aware of the law of limitation. However, the said reason is vague and does not constitute sufficient cause to condone extraordinary delay of 5174 days in filing the present appeal.

3. 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, Law Finder Doc Id # 2777666, wherein it is held that each day's delay has to be explained in a mathematical manner which has not been done by the applicant-appellants. No cogent reason or plausible explanation has been furnished by the applicants for condonation of such an inordinate and unexplained delay in filing the accompanying appeal. Moreover, condonation of such an inordinate delay would tantamount to declaring the law of limitation obsolete/redundant, without any justification. The explanation furnished by the appellants shows that the matter has been pursued with utmost casualness.

4. As such, no ground is made out for condoning inordinate delay of 5174 days. Present application accordingly stands **dismissed**.

FAO-5432-2022 (O&M)

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.4,42,000/- awarded by the learned Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as "the learned Tribunal") vide Award dated 04.06.2008 passed in MACT Case No. 84 dated 07.09.2006 filed under Sections 166 and 140 of the Motor Vehicles Act, (hereinafter referred to as "the Act"). The six claimants are the widow; 3 minor children; and parents of the deceased Vijay Kumar, who was 30 years old at the time of accident. The present appeal has been filed by the widow and 3 children; and the parents of the deceased are performa respondents No. 4 and 5 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-Vijay Kumar had died due to the injuries suffered by him in a motor vehicular accident that took place on 24.08.2006 at around 9:00 a.m. due to the rash and negligent driving of a Car bearing registration No.CH-3A-2028 (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 nothing has been awarded by the learned Tribunal towards loss of estate and loss of consortium. 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 Id. 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 prior to the accident, deceased was engaged in sale of papad and dairy business by keeping 4 buffaloes; and was earning Rs.10,000/- p.m. However, perusal of the record of the shows that appellants could not produce any proof of income. Accordingly, learned Tribunal had taken notional income of the deceased as Rs.3,000/- p.m. as that of a daily wager. The Tribunal had made deduction of 1/3rd towards personal expenses; thereby taking monthly income to be



Rs.2,000/-. Age of the deceased was taken to be 30 years as stated by the claimants. Accordingly, multiplier of 17 was to be applied, however learned Tribunal had applied multiplier of 18. In this manner, learned Tribunal had calculated total compensation of Rs.4,32,000/- (Rs.2,000 x 12 x 18). Learned Tribunal had further awarded Rs.10,000/- towards funeral expenses; thereby granting total compensation of Rs.4,42,000/- (Rs.4,32,000 + Rs.10,000) alongwith interest @ 7.5% p.a.

6. 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 has 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.

7. Furthermore, the Tribunal has granted compensation as per the law prevalent at that time since the accident occurred in the year 2006. The present-day law cannot be applied to the instant case; especially in view of the fact that the appeal has been filed with an extraordinary delay of 5174 days.

8. The Apex Court in **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.

29.10.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No