



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-4948-2025 (O&M)

Date of decision: 19.08.2025

Rohtas and another

...Appellant(s)

Vs.

Pardeep and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Rohit Kataria, Advocate
for the appellants.

NIDHI GUPTA, J.**CM-16223-CII-2025**

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 665 days in filing the accompanying appeal.

2. The reasons given by the applicant/appellants in the present application seeking condonation of delay of 665 days are as under:-

"3. That Mr. Neer Kailash, Advocate, who is practising in District Court, Bhiwani is relative (nephew) of the appellants and has gone to their village to meet the appellants. Mr. Neer Kailash asked the appellants regarding the case of their son whether it is decided or not, whereas the appellants apprised him that the case was decided but they do not have any document of the same.

4. That on asking of the appellants, Mr. Neer Kailash has applied for the certified the copy of the award on 01.07.2025



and received the same on 07.07.2025. On perusal of the award it transpired that the compensation awarded to the claimants/appellants is not in accordance with the law laid down by the Hon'ble Supreme Court of India. Therefore the appellants approached to this Hon'ble High Court for filing the present appeal.

5. That it is important to mention here that the appellants are poor and illiterate person having no knowledge of law, therefore were not aware of their right to file an appeal.”

3. The above said reasons do not constitute sufficient cause for condoning the extraordinary and inordinate delay of 665 days in filing the appeal. It is established law that delay of each day has to be explained.

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

FAO-4948-2025 (O&M)

The present appeal has been filed by the claimants No. 3 and 2/parents of the deceased, seeking enhancement of compensation of Rs.17,49,523/- awarded by the learned Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as “the learned Tribunal”) vide Award dated 17.07.2023 passed in MACT Petition No. 27 dated 29.03.2017 filed under Section 166 of the Motor Vehicles Act, (hereinafter referred to as “the Act”). Claimant No.1 before the Tribunal/performa respondent No. 4 herein, is the widow of the deceased who is stated to have remarried.

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-Kuldeep had died due to the injuries suffered by him in a motor vehicular accident that took place on 14.02.2017 at about 5:30 p.m. due



to the rash and negligent driving of a Car bearing registration No.HR-22F-7624 (hereinafter referred to as “the offending vehicle”) being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. The learned Tribunal awarded the above said compensation along with interest @ 9% per annum. Respondent No. 3-Insurance Company was held liable to pay the said compensation.

3. Learned counsel for the appellants seeks enhancement of compensation on the ground that income of the deceased has been taken on the lower side as only Rs.8,000/- p.m. It is submitted that the deceased was working as a mason and earning Rs.20,000/- p.m. It is contended that it was the categoric deposition of the claimant No.3, father of the deceased that being a mason, deceased ought to be treated as a skilled worker. Therefore, as per the Minimum Wages in Haryana for skilled worker in the year 2017, income of the deceased ought to have been taken as Rs.11,610/- p.m. Thus, the income of the deceased has been taken on the lower side. Further, consortium of only Rs.44,000/- has been awarded to the claimants. It is submitted that appellants are also entitled to consortium on account of death of their son. Moreover, appellants have spent approximately Rs.50,000/- on transportation of the deceased from Jindal Hospital in Hisar where the deceased succumbed to his injuries, to take the deceased back to Bhiwani for performing funeral and last rites. It is accordingly prayed that the present Appeal be allowed; and the compensation awarded to the appellants be enhanced.

4. No other argument is raised on behalf of the appellants.



5. I have heard Id. counsel and perused the case file in detail.
6. I find no merit in the submissions made on behalf of the appellants. As noted above, it was the pleaded case of the claimants that the deceased was working as mason, from which occupation he was earning Rs.20,000/- p.m. Claimant No.3 father of the deceased as PW2 has even deposed to this effect. However, no evidence to this effect was produced by the appellants. As such, learned Tribunal had taken income of the deceased on the basis of a judgment passed in ***Malkiat Singh Vs. Mohinder Singh and others 2006(3) PLR 583***; wherein income of the deceased therein had been taken as daily wager as Rs.8,000/- p.m. Although it has been contended by Id. counsel for the appellants that as per the relevant Minimum Wage Notification, income of the deceased ought to have been taken as skilled worker as Rs.11,610/- p.m., however, the said Notification has not been produced by the appellants. Therefore, it cannot be said that income of the deceased was wrongly assessed by the Tribunal.
7. Further, age of the deceased was established to be 23 years on the basis of his postmortem report Mark PB. Accordingly, learned Tribunal had made addition of 40% towards future prospects. As claimants were 3 in number, 1/3rd deduction was correctly made towards personal expenses. Multiplier of 18 was also correctly applied. Under the conventional heads, learned Tribunal had awarded Rs.44,000/- towards loss of consortium; Rs.16,500/- towards loss of estate; and Rs.16,500/- for transportation and funeral expenses. Nothing has been shown by the

appellant to this Court that ₹50,000/- was spent by them towards transportation expenses. Accordingly, Learned Tribunal has calculated the compensation in the following manner: -

Sr. No.	Heads of claim	Calculation
1.	Income	₹8,000/- per month
2.	40% future prospects	₹3,200/-
3.	Total Income	₹11,200/- per month
4.	1/3rd deduction	₹3,733/-
5.	After deduction income	₹7,467/- per month
6.	Annual income of deceased	₹7,467 x 12 = ₹89,604/-
7.	Compensation after applying multiplier of 18	₹89,604 x 18 = ₹16,12,872/-
8.	Loss of consortium	₹44,000/-
9.	Loss of estate	₹16,500/-
10.	Transportation and funeral expenses	₹16,500/-
	Total compensation	₹16,89,872/-

8. Learned Tribunal had further awarded Rs.59,651/- towards medical expenses on the basis of the medical bills produced by the appellants; thereby granting total compensation of Rs.17,49,523/- (Rs.16,89,872/- + Rs.59,651/-). Out of the said compensation, 50% of Rs.17,49,523/- has been awarded to the claimant No.1/widow/performa respondent No.4 herein; and 25% to each of the 2 appellants herein.

9. 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 appellants. It has been submitted by the appellants that Consortium should have been awarded to them. In this



situation, reference may be made to judgment of the Hon'ble Supreme Court in **SLP No.13931 of 2017 titled as "New India Assurance Co. Ltd. Vs. Vinish Jain & Others"**, wherein it has been held that where difference in compensation is about 4 to 5 per cent only, it does not warrant interference by this Court as, such variation in compensation is within permissible limits.

10. This above-said judgment of the Hon'ble Supreme Court has been followed by the Kerala High Court in "**The Managing Director, Divisional Controller Versus Alikutty and Others**" Law Finder Doc Id # **1885188**. Relevant para 18 of the said judgment is reproduced below:-

*"18. It is to be borne in mind, the accident occurred on 23,2,2019. It is more than 2 ½ years since the respondents 1 to 4 have been knocking at the doors of the Courts seeking compensation on account of the death of the bread-winner. It is trite law that the Tribunal is permitted to do some guess work and also exercise its discretion to fix the reasonable and just compensation, for which there cannot be any straightjacket formula based on mathematical precision. In **New India Assurance Company Vs. Vinish Jain and Others [(2018) 3 SCC 619]**, the Hon'ble Supreme Court has held that if the fixation of compensation is within permissible limits, the courts should normally not interfere with such awards".*

Above said view has been reiterated by the Kerala High Court in "**Reliance General Insurance Company Limited Vs. Adila and Others**", Law Finder Doc ID # **1921609**, paras 16 and 17 of which read as under:-

"16. The other area of dispute is that the Tribunal after awarding compensation under the conventional heads has awarded Rs.75,000/- towards loss of love and affection and Rs.10,000/- awarded towards pain and sufferings.

*17. In **New India Assurance Co., Ltd v. Vineesh.J [2018 (3) SCC 619]**, the Hon'ble Supreme Court has held that the Appellate Court can permit variation of plus or minus 4 to 5 percent."*



11. Further, a 3-Judge Bench judgment of the Hon'ble Supreme Court in the case of ***“Reshma Kumari v. Madan Mohan (SC) 2013(5) Scale 160; Law Finder Doc ID # 421379;*** holding 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.”*

12. Accordingly, the present appeal is hereby **dismissed**.

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

19.08.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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