IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 10.12.2025

FAO-5732-2023(O&M)

Parmeshwari Devi & Others

...Appellant(s)

Vs.

Charanjit Singh & Others

...Respondent(s)

***

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Amandeep Chhabra, Advocate
for the appellants.

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NIDHI GUPTA, J.

CM-19536-CII-2023

This is an application under Section 5 of Limitation Act for condonation of delay of 188 days in filing the appeal.

The reason cited by the applicants/appellants for condonation of extraordinary delay of 188 days is that:-

> *"2. That the appellants are poor persons and they were not having sufficient means to engage counsel to file appeal before this Hon'ble Court against the award and now they have arranged the money and the present appeal is being filed without any further delay and due to this reason the delay in filing the appeal was increased and in view of the above delay of 188 days in filing the present appeal has occurred."*

The above cited reason is vague and does not constitute sufficient cause to condone extraordinary delay of 188 days in filing the present appeal. It is cardinal principle of law that delay of each day has to be explained. Reliance may be placed upon recent judgment of Hon'ble Supreme Court in **"Shivamma (Dead) by LRs Vs. Karnataka Housing Board & Others" Civil Appeal No.11794 of 2025 decided on 12.09.2025.** As such, no ground is made out for condoning inordinate delay of 188 days. Present application accordingly stands **dismissed**.

MAIN CASE

Present appeal has been filed by claimants seeking enhancement of compensation of Rs.35,50,000/- awarded by the Motor Accident Claims Tribunal, Bathinda (hereinafter 'the learned Tribunal') vide Award dated 22.12.2022 passed in MACP Case No.2 of 2018 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). The 5 claimants are the 48-year-old widow, 27-year-old daughter, 21-year-old son, 82-year-old mother, and 35-year-old married daughter of deceased Madan Lal, who was 47 years old at the time of accident.

2. Brief facts of the case are that the ld. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that deceased Madan Lal had died due to the injuries suffered by him in a motor vehicular accident that took place on 22.09.2017 due to the composite rash and negligent driving of Canter bearing registration

No.PB-03-AF-9360 (hereinafter referred to as "the offending vehicle") being driven and owned by respondent No.1 and insured by respondent No.2; and Canter bearing registration No.PB-10-CR-9181 being driven by Gaurav (also deceased), owned by respondent No.3, and insured by respondent No.4, in which the deceased Madan Lal was riding at the time of accident.

3. Upon appraisal of pleadings and oral & documentary evidence adduced by the parties, the learned Tribunal found that the accident in question had been caused due to the composite rash and negligent driving by respondent No.1 of Canter bearing registration No.PB-03-AF-9360 and Canter bearing registration No.PB-10-CR-9181, which was being driven by Gaurav and in which deceased Madan Lal was riding at the time of accident. In the accident in question, both Madan Lal and Gaurav had died due to the injuries suffered by them. Liability is jointly and severally affixed as 50% upon respondents No.1 and 2; and 50% upon respondents No.3 and 4. Further, the learned Tribunal has awarded recovery rights to respondents No.2 and 4 qua the vehicles insured by them respectively as both vehicles in question did not possess necessary and valid documents. The aforesaid compensation has been awarded along with interest @ 9% per annum.

4. Learned counsel for the claimants seeks enhancement of compensation by submitting that income of the deceased has been wrongly assessed by the learned Tribunal as Rs.2,85,000/- per annum. It is submitted that it was the pleaded case of the appellants before the learned

Tribunal that prior to the accident, the deceased was running Scrap Material Business and earning Rs.35,000/- per month. It is submitted that to prove the income of the deceased, the claimants had produced the Income Tax Returns of the deceased for the years 2014-15 (Ex.C7); for the year 2015-16 (Ex.C8); for the year 2016-17 (Ex.C9) and for the year 2017-18 (Ex.C10). Learned counsel submits that income of the deceased ought to have been taken as per the last Income Tax Return (Ex.C10). However, the learned Tribunal has calculated the average of the income based on the last three Income Tax Returns filed by the deceased. It is contended that as per settled law, the learned Tribunal ought to have taken income of the deceased as per the Income Tax Returns for the year 2017-18 (Ex.C10).

5. It is further submitted that age of the deceased was proved to be 43 years on the basis of his Post-Mortem Report. As such, the learned Tribunal ought to have applied multiplier of 14; whereas the learned Tribunal has applied multiplier of 13. Moreover, learned Tribunal has awarded no compensation towards loss of love and affection. Even rate of interest is on the lower side and the same should be 12% per annum. Learned counsel accordingly prays for modification of the impugned Award.

6. No other argument is made on behalf of the appellants. I have heard learned counsel and perused the case file in detail. I find no merit in the submission advanced on behalf of the appellants.

7. It is established position in law that income has to be determined by taking average of the income of the deceased for the three years preceding his death. Thus, ld. Tribunal has correctly assessed annual income of the deceased as ₹2,85,000/–; by taking average of the income for three years on the basis of the income tax returns produced by the appellant.

8. The contention of the appellants that the age of the deceased ought to have been taken as 43 years on the basis of his Post-Mortem Report, is misplaced as, in the Aadhaar Card of the deceased (Ex.R1), his date of birth is mentioned as 10.10.1970. Therefore, on the date of accident, the deceased was 47 years old. Learned counsel for the appellants has been unable to dispute this claim. Thus, the learned Tribunal had correctly made an addition of 25% towards future prospects; and correctly applied multiplier of 13. Furthermore, the learned Tribunal has made a deduction of 1/4th towards personal expenses. It is my view that given the ages of the children of the deceased, a deduction of one third ought to have been made. Under the conventional heads, Tribunal has awarded Rs.44,000/- as consortium; Rs.16,500/- towards loss of estate and Rs.16,500/- towards funeral expenses; granting a total compensation of Rs.35,50,000/- in the following manner:-

Head	**Amount**
Income	Rs.2,84,747/- per annum rounded off to Rs.2,85,000/- per annum
Addition of 25% as future prospects	Rs.2,85,000/- + Rs.71,250/- = Rs.3,56,250/-
Income Tax	Nil

Deduction of 1/4th	Rs.3,56,250/- - Rs.89,062/- = Rs.2,67,188/-
Multiplier of 13	Rs.34,73,444/-
Consortium (Rs.40,000/- + 10%)	Rs.44,000/-
Loss of estate (Rs.15,000/- + 10%)	Rs.16,500/-
Transportation and funeral expenses (Rs.15,000/- + 10%)	Rs.16,500/-
Total	**Rs.35,50,444/- rounded off to Rs.35,50,000/-**

9. As per judgment of the Hon'ble Supreme Court in **(SC) SLP No.13931 of 2017** titled as **"New India Assurance Co. Ltd. Vs. Vinish Jain & Others" Law Finder Doc ID # 977386,** 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".*

11. 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."*

12. No case law to the contrary has been cited by learned counsel for the appellants.

13. From the above facts, it is clear that a very just and fair compensation has been awarded to the appellant. Nothing whatsoever has been shown to this Court that would merit enhancement of the compensation granted to the appellant. 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 & Another Vs. Jasbir Kaur & Others' Law Finder Doc ID # 64043** and **'Divisional Controller K.S.R.T.C. Vs. Mahadev 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 the case of **"General Manager, KSRTC Vs. Susamma Thomas &**

Others" 1994 Volume-II SCC 176, the Hon'ble Supreme Court has held that misplaced sympathy, generosity and benevolence cannot be the guiding factor for determining the compensation.

14. 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;*** has held 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."*

15. In view of the above noted factual and legal position, the present appeal accordingly stands **dismissed** on grounds of delay as well as on merits.

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

10.12.2025 **(Nidhi Gupta)**
Sunena **Judge**

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