

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****122****Date of decision: 18.11.2025****FAO-5731-2023(O&M)****Neetu Devi & Others****...Appellant(s)****Vs.****Mahesh Kumar Yadav & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Vanshika Daaria, Advocate for
Mr. Surinder Daaria, Advocate
for the appellants.

*********NIDHI GUPTA, J.****CM-19533-CII-2023**

This is an application under Section 151 CPC read with Section 5 of Limitation Act for condonation of delay of 72 days in filing the appeal.

After going through the contents of the application, which is supported by affidavit of the applicant, the same is allowed subject to all just exceptions and delay of 72 days in filing the present appeal is condoned.

MAIN CASE

Present appeal has been filed by claimants seeking enhancement of compensation of Rs.24,32,500/- awarded by the Motor Accident Claims Tribunal, Gurugram (hereinafter 'the learned Tribunal') vide Award dated 28.04.2023 passed in Claim Petition No.148 dated



28.10.2020 filed under Section 166 of the Motor Vehicles Act (hereinafter “the Act”). The 3 claimants are the widow and 2 minor children of deceased Pawan Kumar, who was 40 years old at the time of accident. Respondents No.4 and 5 in the Claim Petition, are the parents of the deceased who were also held entitled to compensation. Present appeal has been filed by the 3 claimants and said respondents No.4 and 5.

2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that deceased Pawan Kumar had died due to the injuries suffered by him in a motor vehicular accident that took place on 03.07.2020 at about 7 am due to the rash and negligent driving of Crane bearing registration No.HR-26-DR-7891 (hereinafter “the offending vehicle”) being driven by respondent No.1, owned by respondent No.2, and insured by respondent No.3. The said compensation has been awarded along with interest @ 6% per annum. Respondents were held jointly and severally liable for payment of compensation.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that the appellants had duly proved on record that the deceased was supplying milk and doing dairy farming from which he was earning Rs.50,000/- per month. Additionally, the deceased was also doing the work of electrician from which he was earning Rs.15,000/- per month. Yet the learned Tribunal has taken income of the deceased as only



Rs.14,000/- per month, which is on the lower side. Accordingly, income of the deceased as assessed by the learned Tribunal deserves to be enhanced. Moreover, the appellants had spent Rs.2 lakh on transportation and last rites which amount deserves to be reimbursed. Learned counsel accordingly prays that the present appeal be allowed and the impugned Award be modified and compensation be enhanced.

4. 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 in respect of the income of the deceased. As noted above, it was the pleaded case of the appellants that deceased was supplying milk and doing dairy farming from which he was earning Rs.50,000/- per month. However, the learned Tribunal has categorically recorded in Para 30 of the impugned Award as follows:-

“30. Admittedly, there is no evidence that deceased Pawan used to keep buffaloes or cows at his own land. The petitioners have also not brought on record any evidence to show that deceased was owner of any land over which he used to run the dairy. The register Ex.P7 brought on record shows that he was engaged in the occupation of sale purchase of milk. There is no specific evidence that what was his exact income from the sale purchase of milk. PW4 Tarun even could not produce any document in order to establish his direct employment with the deceased.”

5. In this background, the learned Tribunal had assessed income of the deceased as that of a daily wager as Rs.14,000/- per month, as per



the prevailing Deputy Commissioner rates for daily wagers within the District of Gurugram in the year 2020. I find no error in the same.

6. Age of the deceased was proved to be 40 years on the basis of his Post-Mortem Report (Ex.P13) and Death Summary (Ex.P12). Accordingly, Tribunal had made an addition of 25% towards future prospects, which is as per law. As there were 5 dependents, deduction of 1/4th was correctly made towards personal expenses. Multiplier of 15 was correctly applied.

7. Under the conventional heads, the learned Tribunal has awarded consortium of Rs.40,000/- only to claimant No.1/widow; and Rs.15,000/- towards loss of estate; and Rs.15,000/- towards funeral expenses. Needless to say, appellants No.2 to 5 being minor children and parents of the deceased Pawan Kumar are also entitled to Rs.40,000/- each towards loss of consortium; which is in conformity with the structured formula enunciated by the Hon’ble Supreme Court in numerous judgments. As such, the said amounts of consortium are liable to be paid to the claimants; and are accordingly being granted without issuing notice to the respondent no.3/ Insurance Company, as the same is in accordance with the law laid down by the Apex Court.

8. Accordingly, compensation awarded to the claimants is re-assessed in the following manner:-

Head	Awarded by learned Tribunal	Re-assessed compensation
Monthly income	Rs.14,000/-	Rs.14,000/-



Future prospects	(25%) Rs.14,000/- + Rs.3,500/- = Rs.17,500/-	(25%) Rs.14,000/- + Rs.3,500/- = Rs.17,500/-
Deduction	(1/4th) Rs.17,500/- - Rs.4,375/- = Rs.13,125/-	(1/4th) Rs.17,500/- - Rs.4,375/- = Rs.13,125/-
Annual income	Rs.13,125/- x 12 = Rs.1,57,500/-	Rs.13,125/- x 12 = Rs.1,57,500/-
Multiplier	(15) Rs.1,57,500/- x 15 = Rs.23,62,500/-	(15) Rs.1,57,500/- x 15 = Rs.23,62,500/-
Loss of estate	Rs.15,000/-	Rs.15,000/-
Loss of consortium	Rs.40,000/-	Rs.40,000/- x 4 = Rs.1,60,000/-
Funeral expenses	Rs.15,000/-	Rs.15,000/-
Total	Rs.24,32,500/-	Rs.25,52,500/-

9. Present appeal accordingly stands **partly allowed** in above terms. However, in case any of the respondents are aggrieved of the above enhancement of compensation, liberty is granted to them to revive the present appeal within eight weeks. Registry is further directed to send a copy of this order to the respondents by registered/speed post.

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

18.11.2025

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No