



## IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

116

FAO-2139-2020 (O&M)  
Date of decision: 23.04.2026

Chander Mukhi and another

...Appellant(s)

Vs.

Sheru and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- None for the appellant.

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NIDHI GUPTA, J.CM-6178-CII-2020

Prayer in this application filed under Section 5 of the Limitation Act read with Section 151 CPC is for condonation of delay of 160 days in filing the accompanying appeal.

2. The only reason cited by the applicant/appellant in the abovesaid application for condonation of 160 days delay in filing the appeal is as under:-

*"That there is delay in filing the appeal. The delay in filing the appeal has occurred because the appellant handed over the copy of the award to the counsel but the record of the lower court has not been received from the counsel court below. The appellant has approached the office of counsel court below but inadvertently it has been supplied on 10.02.2020 and after that appeal could be filed, the delay has occurred. In this process the delay of 160 days has occurred. The delay is not intentional and deliberate."*



3. The above said reason given on behalf of the appellant is vague and does not constitute sufficient ground for condonation of inordinate delay of 160 days. Application does not mention as to on which date, the appellant handed over the copy of the award to the counsel. In fact, the said reason reflects lackadaisical approach of the appellant in filing the present Appeal. This cryptic explanation furnished by the applicant does not constitute 'sufficient cause', as required under law.

4. Duty lies upon the appellant to be vigilant towards her rights to pursue litigation diligently. The appellant cannot totally sleep upon the matter after allegedly entrusting the same to their counsel. In this situation, it would be apposite to refer to recent judgment of the Delhi High Court in **Moddus Media Pvt. Ltd. v. M/s. Scone Exhibition Pvt. Ltd., (Delhi): Law Finder Doc Id # 887148** holding that:

*"11. The litigant owes a duty to be vigilant of his rights and is also expected to be equally vigilant about the judicial proceedings pending in the court of law against him or initiated at his instance. The litigant cannot be permitted to cast the entire blame on the Advocate. It appears that the blame is being attributed on the Advocate with a view to get the delay condoned and avoid the decree. After filing the civil suit or written statement, the litigant cannot go off to sleep and wake up from a deep slumber after passing a long time as if the court is storage of the suits filed by such negligent litigants. Putting the entire blame upon the advocate and trying to make it out as if they were totally unaware of the nature or significance of the proceedings is a theory put forth by the appellant / applicant/*



*defendant company, which cannot be accepted and ought not to have been accepted.”*

5. Moreover, it is cardinal principle of law that delay of each day has to be explained. In this regard, reference may be made to a 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-appellant. No cogent reason or plausible explanation has been furnished by the applicant for condonation of such an inordinate and unexplained delay in filing the accompanying appeal. Moreover, condonation of such an inordinate delay would be tantamount to declaring the law of limitation obsolete/redundant, without any justification.

6. As such, no ground is made out for condoning inordinate delay of 160 days. Present application accordingly stands **dismissed**.

**FAO-2139-2020 (O&M)**

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.12,86,640/- awarded by the learned Motor Accidents Claims Tribunal, Ambala (hereinafter referred to as “the learned Tribunal”) vide Award dated 08.05.2019 passed in MACP Case No. 64 dated 09.02.2017 filed under Section 166 of the Motor Vehicles Act, (hereinafter referred to as “the Act”). The 2 claimants are the 50-year-old



mother; and 55-year-old father of the deceased Deen Bandhu Mishra, who was 30 years old at the time of accident.

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-Deen Bandhu Mishra had died due to the injuries suffered by him in a motor vehicular accident that took place on 13.11.2016 at about 11/11:30 p.m. due to the rash and negligent driving of a Truck bearing registration No. HR-69-C-6920 (hereinafter “the offending vehicle”) being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. The above said compensation was awarded along with interest @ 7.5% per annum. All the respondents were held jointly and severally liable to pay the amount of compensation.

3. At the very first instance, it may be pointed out that the present appeal is of the year 2020 and notice is yet to be issued. Since inception of the appeal, none has appeared on behalf of the appellant. Accordingly, on the last date of hearing i.e. 16.05.2025, Registry has been directed to inform learned counsel for the appellant. Office report indicates that learned counsel for the appellant has been duly informed through email at flag ‘A’ as well. Yet, even in the second round, none appears on behalf of the appellant. It is clear that neither the appellants nor their counsel is seriously interested in pursuing the present matter. Consequentially, the present appeal pending for the past 6 years, is being decided in the absence of learned counsel for the appellants.



4. A perusal of the Grounds of Appeal shows that the appellants have sought enhancement of compensation on the grounds that income of the deceased has been wrongly assessed as only Rs.9,350/- p.m; whereas the deceased was working as a Driver and earning Rs.20,000/- p.m. It has further been averred that future prospects ought to have been added @ 50%; adequate amount has not been granted under the conventional heads and Rs.2 lacs each ought to have been awarded under conventional heads. It has also been averred that 50% deduction could not have been made and it should have been 1/3rd as appellants were totally dependent upon the deceased. Even rate of interest is on the lower side and should have been 18% p.a. It has further been stated in para 9 of Grounds of Appeal that the *'Learned Tribunal erred by not granting the compensation under various heads. The Learned Tribunal should have been awarded the compensation under various heads.'*

5. It is accordingly prayed in Grounds of Appeal that the present Appeal be allowed; and compensation of Rs.30 lacs alongwith 18% interest be granted to the appellants.

6. I have perused the case file and record of the case in minute detail. I find no ground is made out for enhancement of compensation.

7. It was the pleaded case of the appellants before the learned Tribunal that deceased was 25 years old and was a Truck driver and was earning Rs.20,000/- p.m. However, perusal of the record of the case shows that except for the bald and self-serving statement of claimant No.2/father of the deceased Brij Mohan Mishra, who had appeared as PW1, no evidence

was brought on record by the appellants to prove that deceased was regular Truck driver. Even driving license of the deceased was not placed on record. No proof of income was brought on record. In these circumstances, due to lack of evidence, Tribunal has correctly assessed income of the deceased as Rs.9342.53/- p.m. rounded off to Rs.9350/- p.m. on the basis of relevant Minimum Wage Notification issued by the Labour Department. I find no error in the same.

8. Further it was the pleaded case of the appellants that at the time of accident, deceased was 25 years old, however, the same was not substantiated by any proof of date of birth. In fact, the learned Tribunal has noted that *“It is quite strange that in today’s times, no age proof has been annexed.”* Accordingly, learned Tribunal had determined the age of the deceased to be 30 years on the basis of his Postmortem Report Mark-B. Keeping in view the age of the deceased, learned Tribunal had correctly made addition of 40% towards future prospects; and applied multiplier of 16. As the deceased was bachelor at the time of accident, deduction of 50% has been made. Under the conventional heads, Tribunal has awarded an amount of Rs.30,000/- for loss of estate, loss of love and affection and funeral expenses. Accordingly, Tribunal has calculated the compensation as follows: -

| Sr. No. | Heads                            | Calculation (in Rs.)          |
|---------|----------------------------------|-------------------------------|
| 1.      | Monthly Income                   | Rs.9,350/-p.m.                |
| 2.      | Addition of 40% future prospects | Rs.13,090/- (Rs.9350 + 3740)  |
| 3.      | Deduction of 50%                 | Rs.6,545 (Rs.13,090-Rs.6,545) |
| 4.      | Annual dependency                | Rs.78,540/- (Rs.6,545 x       |

|    |                                                                 |                                 |
|----|-----------------------------------------------------------------|---------------------------------|
|    |                                                                 | 12)                             |
| 5. | Compensation after multiplier of 16 is applied                  | Rs.12,56,640/- (Rs.78,540 x 16) |
| 6. | Loss of estate, loss of love and affection and funeral expenses | Rs.30,000/-                     |
|    | Total compensation awarded                                      | <b>Rs.12,86,640/-</b>           |

9. I find no error in the compensation calculated. 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, has 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. The Apex Court in the case of **Reshma Kumari v. Madan Mohan (SC) 2013(5) Scale 160; Law Finder Doc ID # 421379;** 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.”*

11. From the above noted factual and legal position, it is clear that just and fair compensation has been awarded to the appellants. 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 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.

12.           Thus, the present Appeal is accordingly **dismissed** on merits, as well as on grounds of delay.

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

23.04.2026

Divyanshi

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No

(NIDHI GUPTA)

JUDGE