



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-1017-2023 (O&M)
Date of decision: 23.04.2026

Palwinder Kaur

...Appellant(s)

Vs.

Daljit Singh and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Prateek Pandit, Advocate
for the appellant.

NIDHI GUPTA, J.

CM-4011-CII-2023

Prayer in this application filed under Section 5 of the Limitation Act read with Section 151 CPC is for condonation of delay of 91 days in filing the accompanying appeal.

2. Heard.

3. For the reasons mentioned in the application which is duly supported by an affidavit of the applicant/appellant, the same is allowed and delay of 91 days in filing the accompanying appeal is condoned.

FAO-1017-2023 (O&M)

The present appeal has been filed by the sole claimant seeking enhancement of compensation of Rs.12,75,000/- awarded by the learned Motor Accidents Claims Tribunal, Kapurthala (hereinafter "the learned Tribunal") vide Award dated 19.07.2022 passed in MACP Case No. 53 dated



11.09.2019 filed under Section 166 of the Motor Vehicles Act,(hereinafter referred to as “the Act”). The sole claimant is the 44-year-old mother of the deceased Harpreet Kaur, who was 19 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- Harpreet Kaur had died due to the injuries suffered by her in a motor vehicular accident that took place on 08.07.2019 at about 5:40 p.m. due to the rash and negligent driving of a Fortuner Car bearing registration No. PB-09-Z 0015 (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. Learned counsel for the appellant seeks enhancement of compensation by submitting that income of the deceased has been taken on the lower side as only Rs.8,777/- p.m. It is submitted that deceased was about 20 years of age and was working as Receptionist in LPU, Phagwara and was drawing a salary of Rs. 10,000/- per month. The salary slip has been proved on record as Exhibit P-4. However, Ld. MACT has ignored the said evidence and taken the income of the deceased as that of an unskilled labourer as per minimum wages for the said year i.e. Rs. 8,777/- per month. It is further submitted that even future prospects have been added on the lower side. The Tribunal has not awarded any compensation towards pain and suffering. Inadequate compensation has been awarded under the heads



of funeral expenses, loss of estate, and loss of love and affection. Even no filial consortium has been awarded.

4. It is accordingly prayed that the present Appeal be allowed; and the impugned Award be modified.

5. No other argument is raised on behalf of the appellant. I have heard learned counsel and perused the case file. I find no merit in the submissions advanced on behalf of the appellant.

6. A perusal of the record shows that no doubt it was the pleaded case of the appellant before the learned Tribunal that deceased was working as Receptionist in LPU, Chheru, Tehsil Phagwara and was earning Rs.10,000/- p.m. Appellant had even placed on record salary slip of the deceased as Ex.P4. However, no reliance could be placed upon the said salary slip as appellant had not examined any witness from LPU to prove the said alleged salary slip. Thus, the alleged employment and said salary slip of the deceased were not proved in accordance with law. Learned Tribunal in para 14 of the impugned Award had further noted that *"Moreover, in this salary slip it has been only mentioned that she was working with them."* Accordingly, learned Tribunal had relied upon judgment of Hon'ble Supreme Court passed in **Neeta Vs. Divisional Manager, Maharashtra State Road Transport Corporation, Kohlapur (2015) 3 SCC 590** and had assessed income of the deceased as Rs.8,777/- p.m. as payable to an unskilled labourer on the basis of relevant Minimum Wage Notification. I find no error in the same. Moreover, Id. counsel for the appellant has been unable to distinguish the abovesaid judgment and no contrary judgment has been produced.



7. Further, age of the deceased was determined to be 19 years old at the time of accident on the basis of her Aadhar Card; wherein her year of birth has been mentioned as 2000. Learned Tribunal had further made addition of 30% towards future prospects; thereby calculating total income to be Rs.1,36,921/- (Rs.8777 x 12 + Rs.31,597). As the deceased was bachelor, learned Tribunal had correctly made deduction of 50% towards personal expenses; thereby calculating annual dependency to be Rs.68,460/- p.a. (Rs.1,36,921-Rs.68,461). Keeping in view the age of the deceased, multiplier of 18 had been correctly applied; thereby calculating dependency of Rs.12,32,280/- (Rs.68460 x 18). Learned Tribunal had further made addition of Rs.27,754/- towards medical expenses on the basis of medical bills Ex.P10 to Ex.P18 which were proved by CW2 Amarjit Singh. Under the conventional heads, learned Tribunal has awarded only an amount of Rs.15,000/- towards funeral expenses; thereby granting total compensation of Rs.12,75,034/-, rounded off to Rs.12,75,000/-.

8. Thus, at best, as per structured formula enunciated by the Hon'ble Apex Court, the impugned Award may be modified in respect of the consortium to be paid to the appellant. Firstly, in terms of judgment of the Hon'ble Supreme Court in **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.



9. Even otherwise, I have given my very thoughtful consideration to the submissions and contentions advanced on behalf of the appellant. I find that in the peculiar facts and circumstances of the present case no ground is made out to enhance the compensation, for the reasons given hereinbelow.

10. The pleaded case of the appellant in the claim petition as recorded by the Tribunal in para 2 of the impugned Award is as follows: –

“2. Filtering the necessary details, the facts which are requisite to be stated herein are that on 08.07.2019, deceased Harpreet Kaur was coming to her village after finishing her job at LPU village Chheru, Tehsil Phagwaa, District Kapurthala. Around 5.40 P.M, when she was crossing the GT road on foot, meanwhile from the side of Jalandhar one vehicle bearing registration No. PB 0-9 Z 0015 make Fortuner, which was being driven by respondent No.1 Daljit Singh in a rash and negligent manner and with high speed came and struck against the deceased, as a result of which the deceased got multiple injuries and she was brought to Civil Hospital, Phagwara and from where she was referred to Johan Hospital, Jalandhar, where she died due to the injuries on 09.07.2019. It was further submitted that the accident had taken place due to sole; rash and negligent driving of the offending Car bearing registration no. PB-09-Z-0015. Even, FIR No. 70 dated 08.07.2019, under section 279/304-A IPC was registered at Police Station Sadar, Phagwara, District Kapurthala against the driver of the offending vehicle, on the basis of statement of Palwinder Kaur wife of Surinder Pal, being eye witness of the accident. It was further submitted that at the time of death of Harpreet Kaur, she was 20 years of age, working in LPU, Chheru, Tehsil Phagwara, and also doing the



stitching work and was earning of Rs. 20,000/- per month. In the end, it was submitted that claimant, who is mother of deceased Harpreet Kaur be granted compensation to the tune of Rs. 75 lakhs.”

11. The claimant was eyewitness of the accident in question. On the basis of the statement made by the claimant, in respect of the accident dated 08.07.2019, an FIR No.70 dated 09.07.2019 under Sections 304-A, 279 IPC was registered at Police Station Sadar, Phagwara. The claimant had appeared before the learned Tribunal as CW1 and had deposed through her Affidavit Ex.CW1/A. The evidence of the appellant before the learned Tribunal is in para 10 of the impugned Award, which reads as follows: -

“10. To establish the fact that Harpreet Kaur died in a motor vehicular accident caused by respondent no.1 while driving Fortuner Car bearing registration no. PB-09-Z 0015, CW-1 Palwinder Kaur being the author of the FIR through her affidavit Ex.CW1/A, has reiterated entirely the same version regarding the manner in which the accident took place, as stated by the claimant in her claim petition, as she has specifically stated that on 08.07.2019 her daughter deceased Harpreet Kaur was returning to her village after finishing her job at LPU, Tehsil Phagwara, and when she was crossing the G.T road on foot, meanwhile from the Jalandhar side, one vehicle bearing registration No. PB 09 Z 0015 make Fortuner which was being driven by respondent Daljit Singh in a very rash and negligent manner came and struck against the deceased Harpreet Kaur, as a result of which she received multiple injuries and died in the hospital. CW-1 Palwinder Kaur, being author of the FIR no.0070 dated 08.07.2019, proved the same as Ex. P2. This witness was



cross examined at length on behalf of counsel for respondents, but her testimony could not be shattered and she remained firm on her stand.”

12. Thus, the Id. Tribunal held the appellant entitled for compensation on the basis of evidence given by her with regard to the rash and negligent driving of the offending vehicle by the respondent no.1.

13. However, it is to be seen that in the criminal trial being faced by respondent No.1 Daljit Singh in the aforesaid FIR No. 70 dated 09.07.2019, the complainant Palwinder Kaur had appeared as PW2 and had turned hostile and had refused to identify respondent No.1; as a result of which, respondent No.1 has been acquitted by the learned Judicial Magistrate, 1st Class, Phagwara, vide judgment dated 26.11.2019. The relevant findings of learned Judicial Magistrate 1st Class, Phagwara are contained in para 15 of the judgment dated 26.11.2019, which read as under: -

“15. As the complainant PW-2 has turned hostile, therefore, I have no hesitation to hold that the prosecution failed to establish its case against the accused beyond the shadow of reasonable doubt. The identity of the accused person as the person who drove offending car bearing RC no. PB-09-Z-0015 make Toyota Fortuner has gone unproved on record. From the evidence on the record it cannot be held that accused present in the court have committed any offence as alleged by prosecution.”

14. A bare reading of the above facts shows that before the learned JMIC, the claimant side has turned turtle on its statement made before the



Tribunal. No doubt, proceedings under the Act have to be decided on the preponderance of probabilities. However, this Court cannot shut its eyes in an ostrich like manner to the starkly diametrically opposite stance taken by the claimant in the criminal trial. Clearly, no credence can be attributed to the contrary statements made by the claimant side before the learned Tribunal. It is to be seen that the appellant has been held entitled to compensation by the Tribunal only on the basis of statement made by the eyewitness-appellant to the effect that the accident in question had been caused due to the rash and negligent driving of the offending vehicle by the respondent no.1. However, from the above noted facts, it would appear that the claimant side has deposed falsely before the Tribunal only with a view to get the compensation. It is my view that the said act of the claimant side amounts to perjury.

15. Learned counsel for the appellant has strongly opposed the aforesaid view taken by this Court and has vehemently contended that in terms of judgment of Hon'ble Supreme Court in **Kuncham Lavanya and others v.s Bajaj Allianz General Insurance Co. Ltd. And another** **Diary No. 44210 of 2019**, it has been held that negligence before the Tribunal is determined on the preponderance of probabilities and not beyond reasonable doubt. It is submitted that in the said judgment, it has been held that *"Even if acquittal occurred in a criminal case, the findings of negligence in the motor accident claim remained valid...."*

16. However, it may first be pointed out that the said judgment of the Hon'ble Supreme Court is not applicable to the present case being



distinguishable on facts and law in as much as in the said case of **Kuncham Lavanya (supra)**, complainant/claimant had not turned hostile. In the said case, the Hon'ble Apex Court had only made general observation that cases before the Tribunal are to be decided on the preponderance of probabilities. As has already been observed hereinabove by this Court, there is no dispute with regard to the said principal.

17. Learned counsel for the appellant has then relied upon judgments of this Court passed in **FAO-2767-2018** titled as **National Insurance Co. Ltd. vs. Suman and others**, decided on 30.08.2018; and **FAO-4426-2019** titled as **Oriental Insurance Company Ltd. vs. Malkiat Kaur alias Malkiyat Kaur and others**, decided on 22.08.2019; wherein it has been held that even if eyewitness has turned hostile during course of criminal proceedings, learned Tribunal is required to adjudge the case on the basis of the evidence produced before it and not on the testimony given in criminal Court. I am in respectful disagreement with the aforesaid view taken by my worthy predecessors.

18. I am supported in my view by most recent judgment of Hon'ble Supreme Court in **Rajamma v. M/s Reliance General Insurance Co. Ltd., (SC) : Law Finder Doc Id # 2784588** decided on 26.09.2025; wherein while upholding that *".....proof of accident in motor accident claims is based on the preponderance of probabilities"*, it has simultaneously been held that *"..... Suspicion on FIR registration and contradictions in witness testimony can lead to dismissal of claims. Testimony of eyewitness deemed unreliable due to contradictions and lack of supporting evidence. FIR*



and witness statements must be consistent and credible to establish the involvement of the offending vehicle and the negligence of the driver.” Thus, the Hon’ble Supreme Court has categorically enunciated that in case of contradiction in witness testimony, claim petition is liable to be dismissed. In the present case, as noted above, there is distinct contradiction in the case set up by the appellant before the Tribunal, and as projected by her before the learned JMIC.

19. This Court in **“Shri Ram General Insurance Company Limited Vs. Jeeto Devi & Others”** FAO-2231-2014 decided on 03.12.2019, held that:-

*“(6) This Court cannot loose sight of the judgment rendered by this Court in the case of **United India Insurance Company Limited versus Kamla Devi and others 2010(53) RCR (Civil) 651**, wherein it was specifically held that in case an eye witness gives totally different version before the Court conducting trial in criminal case from the statement made by the said eye witness before the Tribunal, the testimony of such a witness is unworthy of being accepted and the evidence should be simply rejected. In fact, the learned Single Bench came down heavily on such witness and held that the said witness is also liable for perjury.”*

20. This Court in abovesaid judgment in **“United India Insurance Company Limited Vs. Kamla Devi & Others” (P&H) : Law Finder Doc Id # 251230** has held that:

“5. It should still have been possible for the Tribunal to take a decision uninfluenced by any decision that may have come before the criminal court. The several decisions which have come about on this issue are to the effect that a judgment in a criminal court



is not binding on the Tribunal; the non-filing of a FIR is not material; even the fact of involvement of the vehicle as found by the criminal court is not binding. While the Tribunal is competent to assess the evidence which is brought before it and take an independent decision, then the point that has to be seen is whether there was any evidence worth its name before the Tribunal to come a finding that the particular vehicle was involved in the accident. It can be either that the version of Sitar Mohd. cannot be relied for he has contradicted himself wholesale with the version given before the criminal court or looked for other evidence which was placed before the Court. Alternatively if any explanation had been given by the witness as to why he deposed falsehood before the criminal court, even such an explanation could have been accepted to enter a finding that the accident took place only involving the particular insured's vehicle. In this case, no explanation has been given by the witness as to why he stated before the criminal court that he did not know which vehicle was involved in the accident. He would, on the other hand, defy that he ever made any such statement before the criminal court, necessitating the statement made before the criminal court to be exhibited for contradiction before the Tribunal. It must be remembered a statement in criminal court case by a witness is also on oath. If he was uttering falsehood, he was liable for perjury. If there was contradiction between the version elicited before the Tribunal to the statement made before the criminal court then such a witness will be unworthy of acceptance. The Tribunal could have simply rejected the whole evidence. If it was going to pick out one line from chief examination to say that the insured's vehicle was involved in the accident, the Tribunal was doing something which is not a judicial function but a travesty of justice."

21. Notwithstanding the misconceived arguments made by learned counsel for the appellant, this Court is unable to reward the claimant and finds it unconscionable that claimant’s side merely with a view to procure compensation gives false statement alleging involvement of the offending vehicle and the negligence of respondent No.1 before the learned Tribunal. Whereas before the criminal trial makes a diametrically opposite statement while refusing to identify respondent No.1.
22. In view of the above, the present Appeal is accordingly **dismissed.**
23. 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