

2026 PHHC:018176



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

FAO-655-2025 (O&M)
Date of Decision: 03.02.2026

Kavita Devi and others

....Appellants

Versus

Ram Kishor and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Vikram Rana, Advocate, for the appellants.
Mr. Vinod Gupta, Advocate, for respondent No.3.

VIKRAM AGGARWAL, J.

CM-2063-CII-2025

Prayer in the present application preferred under Section 5 of the Limitation Act, 1963 is for condonation of 312 days' delay in filing the appeal.

Heard.

Though an explanation has been furnished in the application that the counsel for the applicant-appellants in the District Courts, Charkhi Dadri, delayed in handing over the requisite documents to the applicant-appellants, the same may not be sufficient to explain the delay.

Be that as it may, I deem it appropriate to examine the issue on merits rather than non-suiting the applicant-appellants on the issue of delay.

That being so, with no objection from the counsel for respondent No.3, the application seeking condonation of 312 days' delay, is allowed and the delay in filing the appeal is condoned subject to all just exceptions. However, no interest shall be payable for the aforesaid period.

FAO-655-2025

The instant appeal has been instituted by the appellant-claimants seeking enhancement in compensation awarded by the Motor Accident Claims Tribunal, Charkhi Dadri (for short `the MACT'), on account of the death of one Bijender, who expired in a motor vehicular accident, which took place on 28.11.2017.

2. A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short `the MV Act') was instituted by the widow; son, minor daughter and father of one Bijender. It was averred that on 25.11.2017, Bijender, who was employed as a driver with Shyam Carrying Corporation, Pune, started his journey on a truck bearing registration No. HR-61A-9899 from Bhiwari (Mumbai) to Chandigarh. On 28.11.2017, when he was 400 metres short of Rithola Toll Tax (Udaipur Rajasthan), he parked his vehicle on the road-side to check some defect in the truck. In the meantime, a truck bearing registration No. HR-69C-7002 (hereinafter referred to as `the offending vehicle'), which was being driven by respondent No.1 in a rash and negligent manner, came from Udaipur side and hit Bijender from the backside. As a result of the same, Bijender suffered multiple greivous injuries and died on the spot. FIR No. 316 dated

29.11.2017 under Sections 279 and 304-A IPC and Sections 134/187 MV Act at Police Station Chittorgarh (Rajasthan) was registered by father of the deceased.

It was claimed that at the time of the accident, deceased-Bijender was aged 40 years and was working as a driver and was also an agriculturist and his monthly income was Rs.30,000/-. It was further claimed that the claimants were fully dependent upon deceased-Bijender. Accordingly, compensation of a sum of Rs.2,00,00,000/- (Rupees Two Crore) was claimed.

3. Despite notice, respondents No.1 and 2 (driver and owner of the offending vehicle) did not appear and they were proceeded against *ex-parte*.

Respondent No.3-Insurance Company filed its written statement taking preliminary objections regarding maintainability; estoppel; cause of action and the claimants having concealed material facts. On merits, the factum of the offending vehicle being involved in the accident was denied. It was further asserted that the driver of the offending vehicle was not holding a valid driving licence at the time of accident. Rest of the averments made in the claim petition, were denied.

4. From the pleadings of the parties, following issues were framed:-

1. Whether accident in question on 28.11.2017 causing death of Bijender took place due to rash & negligent driving of offending vehicle (Truck bearing registration No. HR-69C-7002) being driven by respondent No.1? OPP

- 2. If issue No. 1 is proved in favour of petitioners, to what amount of compensation petitioners are entitled to, and from whom? OPP
- 3. Whether petition is not maintainable in the present form? OPR
- 4. Whether petition is bad on account of non-joinder & mis-joinder of necessary parties? OPR
- 5. Whether respondent No.1 was not having a valid driving licence at the time of accident? OPR
- 6. Relief.

- 5. Parties led their respective evidence.
- 6. Vide award dated 22.12.2023, the MACT allowed the petition filed by the claimants, awarding the following compensation:-

Sr. No.	Heads	Calculation (in Rs.)
i)	Age	40 years
ii)	Income	Rs.12,500/- (including future prospects @ 25%) (Rs.10,000+2,500/-)
iii)	1/3 of the (i) deducted as personal expenses per month of the deceased	Rs.12,500-4166/- =8,333/-
iv)	Compensation after multiplier of 14 is applied	(Rs.8,333x12x14) = Rs.1399944/- (Say Rs.14,00,000/-)
v)	Loss of estate	Rs.15,000/-
vi)	Loss of consortium to petitioners (1 to 3)	Rs.1,20,000/- (Rs.40,000/- to each of the petitioners)
vii)	Funeral expenses	Rs.15,000/-
	Total compensation awarded	Rs.15,50,200/-

7. Seeking enhancement in the said compensation, the appellant-claimants have filed the instant appeal.

8. I have heard learned counsel for the parties.

9. The solitary argument raised by learned counsel for the appellants is that the claimants being widow; son; minor daughter and father of deceased-Bijender, were totally dependent upon the deceased and thus, deduction towards personal expenses of the deceased ought to have been 1/4th instead of 1/3rd.

Learned counsel also submits that in terms of the law laid down by the Hon'ble Supreme Court in **National Insurance Company Limited vs. Pranay Sethi and Ors., 2017(16) SCC 680** and **Magma General Insurance Company Ltd. vs. Nanu Ram @ Chuhru Ram, (2018) 18 SCC 130**, the amount awarded on account of consortium; funeral expenses and loss of estate, also deserves to be enhanced.

10. *Per contra*, learned counsel representing respondent-Insurance Company, submits that there is no illegality in the impugned award passed by the MACT. However, he could not deny the factum of the consortium/filial compensation being payable in terms of the judgment of the Hon'ble Supreme Court of India in the case of **Pranay Sethi** (supra).

11. I have considered the submissions made by learned counsel for the parties.

12. Concededly, the claim petition was filed by four claimants i.e. the widow, son, minor daughter and father of deceased-Bijender. The MACT found that all the claimants were

dependent upon the deceased, but ordered deduction of 1/3rd income towards personal expenses of the deceased. In the considered opinion of this Court, once the number of dependent family members was found to be four, 1/4th income ought to have been deducted towards the personal expenses of the deceased, in view of the law laid down by the Hon'ble Apex Court in **Pranay Sethi's case (supra)**.

Still further, in terms of the ratio laid down by the Supreme Court of India in the cases of **Pranay Sethi** (supra) and **Magma General Insurance Company Ltd.'s** (supra) filial consortium, @ Rs.48,400/-, was required to be granted to each of the claimants and for funeral expenses and loss of estate, Rs.18,150/- under each head, was also required to be awarded.

13. Having considered the submissions made by learned counsel for the parties, the compensation awarded by the MACT is enhanced as under:-

Sr. No.	Heads of claim	Calculation (in Rs.)	Enhanced compensation
i)	Age	40 years	No Change
ii)	Income	Rs.12,500/- (including future prospects @ 25%) (Rs.10,000+2,500/-)	No Change
iii)	1/3 of the (i) deducted as personal expenses per month of the deceased	Rs.12,500-4166/- =8,333/-	1/4 th of the (i) deducted as personal expenses per month of the deceased =Rs.12,500 – 3125 = 9375
iv)	Compensation after multiplier of 14 is applied	(Rs.8,333x12x14) = Rs.1399944/- (Say Rs.14,00,000/-)	Rs.9375x12x14 =Rs.15,75,000/-
v)	Loss of estate	Rs.15,000/-	Rs.18,150/-

vi)	Loss of consortium to petitioners No.1 to 4	Rs.1,20,000/- (Rs.40,000/- to each of the petitioners)	Rs.1,93,600/- (Rs.48,400x4)
vii)	Funeral expenses	Rs.15,000/-	Rs.18,150/-
	Total compensation awarded	Rs.15,50,200/-	Rs.18,04,900/-

14. The total compensation, therefore, comes to Rs. Rs.18,04,900/-. After deducting a sum of Rs.15,50,200/- as assessed by the MACT, the balance compensation comes to Rs.2,54,700/-. This amount would be payable in addition to the amount assessed by the learned MACT along with interest @ 7.5% annu+ally. The disbursal and liability to pay the same would be as per the award.

15. The present appeal is accordingly disposed of.

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

(VIKRAM AGGARWAL)
JUDGE

03.02.2026
ds

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