

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****118****FAO-2407-2024(O&M)****Date of decision: 24.03.2026****Sudesh & Others****...Appellant(s)****Vs.****Pardeep & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- Mr. Deepam Ragav, Advocate
for the appellants.***********NIDHI GUPTA, J.****CM-9035-CII-2024**

This is an application under Section 151 CPC for condonation of delay of 33 days in re-filing the appeal.

After going through the contents of the application, which is supported by affidavit of the appellant No.2, the same is allowed subject to all just exceptions and delay of 33 days in re-filing present appeal is condoned.

CM-9036-CII-2024

This is an application under Section 151 CPC for condonation of delay of 54 days in filing the appeal.

After going through the contents of the application, which is supported by affidavit of the appellant No.2, the same is allowed subject to all just exceptions and delay of 54 days in filing the present appeal is condoned.

**MAIN CASE**

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.24,89,000/- awarded by the Motor Accident Claims Tribunal, Rohtak (hereinafter 'the learned Tribunal') vide Award dated 03.10.2023 passed in MACP/78 dated 02.03.2020 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). The 4 claimants are the 61-year-old widow, 38-year-old major son, 30-year-old major nephew, and 81-year-old mother of deceased Jaibir Singh, who was 54 years old at the time of accident.

2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, especially on the basis of evidence led by eyewitness PW2 Zile Singh, concluded that the deceased Jaibir Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 13.04.2019 due to the rash and negligent driving of Car bearing registration No.HR-26-CE-3347 (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 @ 7.5% 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 nothing has been awarded by the learned



Tribunal towards loss of future earnings. Income has not been properly assessed. Dependents have not been properly assessed. Nothing has been awarded towards future prospects. Nothing has been awarded towards loss of love and affection. Interest should have been awarded @ 12% per annum. It is accordingly prayed that the present appeal be allowed and impugned Award be modified as above.

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 submissions advanced on behalf of the appellants.

5. A perusal of record of the case shows that it was the pleaded case of the appellants before the learned Tribunal that prior to the accident in question, the deceased was serving in Sugar Mill, Meham and was also doing agricultural work and earning Rs.65,000/- per month. Accordingly, compensation of Rs.70 lakh had been prayed for. To prove their above-said contention, the appellants had examined PW1 Rohtash, LA from Sugar Mill, Rohtak who had brought the summoned record in respect of the employment of the deceased for the months of March and April 2019 (Ex.P1 and Ex.P2 respectively). On the basis of the said record, PW1 had deposed that deceased had joined the department on 01.04.1993; and in the month of March 2019, the deceased had drawn gross salary of Rs.47,531/-; and that date of retirement of deceased was 31.08.2024 as he was a seasonal employee of the Sugar Mill. Claimant No.2 while appearing as PW3 has



admitted that his mother/claimant No.1/widow of the deceased is receiving widow pension. He has further admitted that she is also getting monthly pension of Rs.3,000/- from ESI in lieu of death of Jaibir Singh. It was further admitted that Sugar Mill had given gratuity amount of Rs.1,50,000/- and amount of Rs.4.5-5 lakh towards Provident Fund. PW3 also admitted that he has received an amount of Rs.6 lakh from the PPF Office.

6. However, the record for the reveals that respondent No.3/Insurance Company had examined RW1 Rajpal, Tune Keeper from Sugar Mill, Meham, who had deposed that salary was paid to deceased as per running/working period of the Sugar Mill; and when Sugar Mill was not working, Jaibir Singh was getting only 40% of the basic pay as salary. RW1 had further stated that Sugar Mill worked for about 3-4 months a year; and that Jaibir was a seasonal permanent employee. RW1 had further stated that *"The family members of Jaibir are getting monthly pension from PF department of Rs.3500/4000/-. Retirement age of the employee in Sugar Mill is 60 years. Sugar Mill used to pay compensation amount of Rs.5,00,000/- to the family members of the deceased employee in lieu of death of the employee. Sugar Mill has paid Rs.6,00,000/- as insurance amount to family members of the deceased in lieu of death of the employee."* RW1 further proved copy of salary statement for the year 2017-2018 Ex.R1, copy of salary statement for the year 2018-2019 Ex.R2, Form-16 for the year 2017-2018 Ex.R3, Form-16 for the year 2018-2019 Ex.R4 and copy of letter dated



28.08.2009 regarding revised pay scale of Sugar Mill employees Ex.R5. As per this record, deceased had received salary of Rs.47,680/- for the month of February 2019. In the year 2018-2019, Mill was closed for six months. As per Ex.R4, total gross salary of deceased was Rs.4,17,143/-.

7. In view of the above evidence, learned Tribunal had rightly held that as Sugar Mill runs only for three to four months in a year and deceased was paid salary as per the running/working period of the Sugar Mill, therefore, salary for only three months of the working period shall be considered. Accordingly, the learned Tribunal had assessed annual income of the deceased as Rs.3,57,411/-. Nothing to the contrary has been shown by the Id. counsel for the appellants. Accordingly, I find no error in the same.

8. Age of the deceased was determined to be about 54 years at the time of death on the basis of his Driving Licence (Ex.P6), in which his date of birth is recorded to be 15.08.1964. Accordingly, the Tribunal had made an addition of 15% towards future prospects; and correctly applied multiplier of 11. Further, the learned Tribunal had rightly made a deduction of 1/3rd towards personal expenses while holding that the claimants No.2 and 3 being the major married son and nephew of the deceased were not entitled to compensation, and only claimants No.1 and 4 being the widow and mother of the deceased were entitled to compensation. The learned Tribunal has further made a deduction of Rs.6,02,000/- as received by the appellants by way of Insurance. Under the conventional heads, the Tribunal has awarded



an amount of Rs.44,000/- towards loss of consortium; Rs.16,500/- towards loss of estate; and Rs.16,500/- towards funeral expenses; thereby granting total compensation of Rs.24,89,000/-.

9. From the above, it is clear that a more than just and fair compensation has been awarded to the appellants. Nothing whatsoever has been shown to this Court that would merit enhancement of the compensation granted 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 & Another Vs. Jasbir Kaur & Others**' Law Finder Doc ID # 64043 and '**Divisional Controller K.S.R.T.C. Vs. Mahadeva 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. As such, no ground is made out for enhancement of compensation.

10. Before parting it must also be pointed out that the appellants were held entitled to compensation on the ground that it was proved before the learned Tribunal that the accident in question had taken place due to the



rash and negligent driving of the offending vehicle by respondent No.1. In arriving at this finding in respect of the issue No.1 and the rash and negligent driving by the respondent No.1, the learned Tribunal had relied upon statement of PW2 Zile Singh, eyewitness, and brother of the deceased Jaiveer.

Relevant findings of the learned Tribunal in this regard are as follows: -

“21. The statement of PW2 Zile Singh, an eyewitness and lodger of FIR remained un rebutted. It was PW2 Zile Singh who had set the criminal machinery in motion by reporting the matter to the police. It would have been so if he was present at the spot and seen the accident. Merely because he had not mentioned the registration number of the offending vehicle and name of its driver in the FIR does not go to put a question mark over his credibility. PW2 has categorically stated that after the accident many persons gathered at the spot and on seeing them, respondent No.1 fled from the spot alongwith his car. PW2 has further stated that when his statement was recorded by the police, he was semiconscious and was unable to recollect the number of the offending vehicle. After registration of the FIR, the matter was investigated by the police and respondent no.1 was booked for causing the accident. He was challaned and even charge-sheet Ex.P7 has been framed against him. All these facts fortify the case of the claimants. This made respondent no.1-driver sole responsible for causing the accident with his negligence.”

11. Thus, FIR No.185 dated 13.04.2019 was registered under Sections 279, 337 and 304-A IPC at Police Station Meham, against respondent



No.1. However, it has come to the notice of this Court that in the above said FIR no. 185 dated 13.4.2019, the respondent No.1 has been acquitted by the learned Sub-Divisional Judicial Magistrate, Meham vide judgment dated 04.04.2025 on the ground that complainant Zile Singh eyewitness had been declared hostile as he did not support the prosecution case. Even owner of the offending vehicle/respondent No.2 herein and another eyewitness PW9 Jagdish had not supported the prosecution case. Relevant findings returned by learned Sub-Divisional Judicial Magistrate, Meham in the said judgment dated 04.04.2025 are as under:-

“14. Jile Singh, complainant was examined as PW6, who did not support the prosecution version and stated that he and his brother Jaivir were going in their car and when they were on by-pass flyover then from wrong side one vehicle came and hit their car due to which their car got dis balanced and his brother got died and he received some injuries. Thereafter, he was taken to the hospital for the treatment. On this, he was declared hostile and was allowed to be cross-examined by Learned APP. Upon his cross-examination, he was read over and made to understand the complaint Ex. PW6/A and supplementary statement Ex.PW6/B but he denied that he gave such complaint and statement to the police. He denied that accused present in the Court was the driver of the offending vehicle. Rest of the suggestions has also been denied by him. He denied the suggestion that in collusion with accused and to save him, he was making a false statement. Nothing incriminating against the accused could be elicited from the testimony of this witness.”



12. A bare reading of the above facts shows that the claimant side has turned turtle on its previous statement. 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 claimants' side in the criminal trial. Thus, no credence can be attributed to the contrary statements made by the claimant side before the learned Tribunal. It would therefore appear that the claimant had deposed falsely before the Tribunal only to get the compensation. In such a situation, reference may be made to a judgment of this Court in **"United India Insurance Company Limited Vs. Kamla Devi & Others"** (P&H) : Law Finder Doc Id # 251230 wherein it has been 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."

13. The above said view has been reiterated by this Court in **"Shri Ram General Insurance Company Limited Vs. Jeeto Devi & Others"** FAO-2231-2014 decided on 03.12.2019, wherein it is held as under:-

*"(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**, 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.”

14. In view of the above noted, factual and legal position, it is clear that the appellants are not entitled to any compensation let alone any enhancement thereof.

15. Learned counsel for the appellants is unable to dispute or controvert the aforesaid facts and findings.

16. In view of the above, present appeal stands **dismissed**.

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

24.03.2026

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No