

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****261-I****FAO-2560-2019(O&M)****Date of decision: 17.03.2026****Smt. Kumud Gupta****...Appellant(s)****Vs.****Sanjay & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Parmod Chauhan, Advocate
for the appellant.

Mr. Sarthak Mehta, Advocate
Mr. PHS Pannu, Advocate
for respondent No.3.

NIDHI GUPTA, J.
CM-8381-CII-2019

This is an application under Section 5 of Limitation Act read with
Section 151 CPC for condonation of delay of 12 days in filing the appeal.

After going through the contents of the application, which is
supported by affidavit of the appellant, the same is allowed subject to all just
exceptions and delay of 12 days in filing the present appeal is condoned.

MAIN CASE

Present appeal has been filed by the injured-claimant seeking
enhancement of compensation of Rs.3,43,850/- awarded by the Motor
Accident Claims Tribunal, Panipat (hereinafter 'the learned Tribunal') vide
Award dated 26.11.2018 passed in Claim Petition RBT No.181 of 2016 filed



under Sections 166 and 140 of the Motor Vehicles Act (hereinafter “the Act”).

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 appellant had suffered injuries in a motor vehicular accident that took place on 01.12.2014 due to the rash and negligent driving of Canter bearing registration No.HR-55A-5749 (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 @ 8% per annum. Respondents No.1 and 2/driver and owner of the offending vehicle were held liable for payment of compensation. Respondent No.3/Insurance Company has been directed to satisfy the Award and has been granted recovery rights against the respondent No.2.

3. Ld. counsel for the appellant seeks enhancement of compensation by submitting that in the accident in question, the appellant had suffered 15% permanent disability. The appellant had suffered injuries on her leg and was admitted in hospital from 01.12.2014 to 03.12.2014. Thereafter, she was referred to Vardhman Trauma and Laproscopy Centre, where she remained admitted from 03.12.2014 to 07.12.2014. Yet, Tribunal has awarded very less amount for permanent disability; and also less amount for pain and suffering. It is further submitted that the Tribunal has



awarded only Rs.2,63,650/- towards medical treatment. Meagre amount has been awarded for attendant, transportation charges, diet, etc. Interest should have been awarded @ 12%.

4. It is further submitted that prior to the accident, the appellant was giving tuitions to students and earning Rs.25,000/- per month. Thus, the learned Tribunal has erred in determining the income of the appellant as only Rs.5000/-per month. Further, no amount has been granted by the learned Tribunal towards future income. It is accordingly prayed that the present appeal be allowed, and compensation be enhanced as claimed.

5. Per contra, learned counsel for the respondent No.3 opposes the submissions advanced on behalf of the appellant and submits that the impugned Award suffers from no error; and the present appeal deserves to be dismissed.

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

7. Perusal of record of the case shows that it was the pleaded case of the appellant before the learned Tribunal that prior to the accident, she was giving tuitions and earning Rs.25,000/- per month. However, no evidence whatsoever in this regard has been produced by the appellant to prove the above-said assertion. In the absence of any evidence brought by the appellant, her income has been correctly assessed as ₹5000/- per month.



8. Further, as per the own case of the appellant, she had suffered injuries on her legs. As per the Disability Certificate (Ex.P60), the appellant had suffered 15% permanent disability for which learned Tribunal has awarded Rs.30,000/- (@ Rs.2000/- per percent of disability). Admittedly, the appellant has not examined any doctor to prove the above-said injuries or disability. Accordingly, no error can be found in the amount of Rs.30,000/- awarded by the learned Tribunal towards permanent disability; or Rs.15,000/- towards pain and suffering as the alleged injuries suffered by the appellant have not been proved as per law.

9. The appellant had further produced medical bills (Ex.P35 and Ex.P47, Ex.P49, Ex.P50), for a total amount of Rs.2,63,850/-, which were proved by examining PW6 S.K. Tyagi, Manager/Record Keeper of Vardhman Hospital, Trauma and Laparoscopy Centre Pvt. Ltd, Muzaffarnager, UP and PW7 Pooja, Record Keeper of Cygnus Maharaja Aggarsain Hospital, Panipat. The said amount was duly reimbursed by the Tribunal towards medical expenses. Tribunal has further awarded an amount of Rs.15,000/- towards pain and suffering; and Rs.20,000/- towards nutrition, special diet, attendant charges and transportation. Although the appellant was unable to prove her income, learned Tribunal has awarded an amount of Rs.15,000/- towards loss of income, and awarded compensation in the following manner: -

Head	Amount
Medical expenses	Rs.2,63,850/-
Pain and suffering	Rs.15,000/-



Loss of income	Rs.15,000/-
Nutrition diet, attendant charges and transportation charges	Rs.20,000/-
15% permanent disability	Rs.30,000/-
Total	Rs.3,43,850/-

10. Nothing has been shown to this Court that would merit enhancement of compensation.

11. It is further to be noted that in respect of the accident dated 1.12.2014, an FIR No.450 dated 02.12.2014 was registered under Sections 279, 337 and 338 IPC at Police Station Sadar, Panipat, on the basis of statement made by Deepak. In the said FIR, respondent No.1 has been acquitted by the learned Judicial Magistrate, 1st Class, Panipat vide judgment dated 05.01.2019, for the following reasons:-

“14. Turning to the facts of the case in hand, the pivotal point for determination of the guilt of the accused is whether the injuries suffered by the complainant are a result of rash and negligent act of the accused. Perusal of the testimonies and record file nowhere reflects that the accused was driving his vehicle in a rash and negligent manner with complete disregard to the safety of others. Neither the injured nor the complainant have been examined by the prosecution. On 27.10.2017, complainant Deepak and victims namely Sandeep and Kumud had appeared and suffered a joint statement that they shall appear on the next date along with Ankit and Suresh for evidence. However, they did not appear thereafter despite sufficient knowledge. Merely stating that the accused was driving the vehicle in a rash and negligent manner in the complaint is not sufficient unless it is



proven that the vehicle was being driven in a manner with utter disregard to the safety of others. No such evidence is available on record. The other witnesses are merely formal in nature and in no manner prove the facts of occurrence and guilt of the accused. The aforesaid paucity of evidence casts a doubt on the case of prosecution. Hence, it is unclear that whether the said vehicle was driven by accused and if so, was it driven in a rash and negligent manner. Thus, it is abundantly clear that the prosecution has failed to establish the identity of the accused beyond reasonable doubt by examination of injured/eye witnesses and has also not been able to establish rash and negligent act, if any, on the part of the accused standing trial.”

12. From the above, it is clear that the claimant Kumud has failed to support her case before the learned JMIC, as a result of which respondent no.1 has been acquitted. Clearly, therefore, appellant has put up a different case before the Tribunal, and a contrary case before the JMIC.

13. Learned counsel for the appellant is unable to dispute or controvert the aforesaid facts and findings.

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

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

17.03.2026

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No