

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

119

FAO-2242-2023 (O&M)
Date of decision: 20.04.2026

Narender Kumar and another

...Appellant(s)

Vs.

Krishan Kumar and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

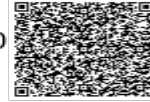
Present:- Mr. Tarun Yadav, Advocate
for the appellants.Mr. Sarthak Mehta, Advocate for
Mr. PHS Pannu, Advocate
for respondent-Insurance Co.

NIDHI GUPTA, J.**CM-8200-CII-2023**

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 103 days in filing the accompanying appeal.

2. The only reason cited by learned counsel for the applicant/appellants in the abovesaid application for condonation of 103 days delay in filing the appeal is as under:-

"2. That there is a delay in filing the present appeal. The brief and relevant reasons for occurring the said delay are that the applicants/appellants have no much knowledge of law. On passing of the impugned award, applicants/appellants had requested the Clerk of the counsel conducting the case before Ld. MACT, Gurugram to make available the certified copy of the award for the purpose of filing the appeal. It was informed by



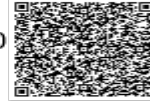
the Clerk that he will apply for the same and as soon as the certified copy of the award is prepared by the copying agency, the applicants/appellants will be informed.

3. That the clerk of the counsel conducting the case before Ld. MACT, Gurugram contacted the applicants/appellants in the 1 week of March 2023, and told the applicants/appellants that the certified copy of Award had been received and that the same alongwith the brief of the case can be collected from him to file an appeal in the Hon'ble High Court."

3. The said reason is vague and does not constitute sufficient cause to condone delay of 103 days in filing the present appeal. The said reasons do not constitute 'sufficient cause' to condone extraordinary and inordinate delay of 1918 days in filing the present appeal. From the above, it would appear that the applicant/appellant was not serious in pursuing the appeal and therefore, he caused the delay in supplying relevant documents to the learned counsel.

4. Duty lies upon the appellants to be vigilant towards her rights to pursue litigation diligently. The appellants 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:

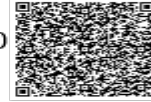
"11. The litigant owes a duty to be vigilant of his rights and is also expected to be equally vigilant about the judicial proceedings pending in the court of law against him or initiated at his instance. The litigant cannot be permitted to cast the



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.”

4. 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-appellants. 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.

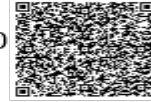
5. As such, no ground is made out for condoning inordinate delay of 103 days. Present application accordingly stands **dismissed**.

**FAO-2242-2023 (O&M)**

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.41,63,600/- awarded by the learned Motor Accidents Claims Tribunal, Gurugram (hereinafter referred to as “the learned Tribunal”) vide Award dated 16.09.2022 passed in MACT Case No. 95 dated 27.04.2018 filed under Section 166 of the Motor Vehicles Act, (hereinafter referred to as “the Act”). The 2 claimants are the 29-year-old husband; and 1 year 3 months-old minor daughter of the deceased Usha Yadav, who was 29 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-Usha Yadav had died due to the injuries suffered by her in a motor vehicular accident that took place on 21.03.2018 due to the rash and negligent driving of a Maruti Vitara Brezza bearing registration No. HR-51-BR-8664 (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 liable to pay the amount of compensation.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that learned Tribunal has not awarded 10% increase payable to the appellants on amount of compensation on account of the conventional heads. Furthermore, income of the deceased has been taken on the lower side. Learned Tribunal has failed to appreciate that deceased was a BAMS Doctor. At the time of death, deceased was employed

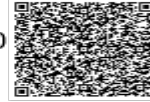


in Kirti Hospital, Gurugram and she was also doing practice at her Krishna Clinic, Village Naharpur Rupa. It was further proved that deceased had been promoted to the post of RMO in Kirti Hospital through her Appointment Letter as RMO as well as salary slip of the deceased Ex.P8; which were duly proved by PW4 Girish Kohli, Computer Operator, Kirti Hospital, Gurugram. It is submitted that from the said evidence it was proved that deceased was earning Rs.40,000/- to Rs.45,000/- p.m. The said facts have been duly corroborated from the bank account statements of the deceased Ex.P14 pertaining to the period 01.04.2018 to 31.03.2019 which show that amount of Rs.40,000/- was credited in the account of the deceased. It is submitted that income of the deceased was subsequently increased to Rs.60,000/- p.m. vide Appointment Letter Ex.P18. He accordingly submits that income of the deceased ought to have been taken as Rs.60,000/- p.m. and compensation of Rs.5 Crores alongwith interest @ 24% p.a. should be granted

4. It is accordingly prayed that the present Appeal be allowed; and the compensation be enhanced in above terms.

5. *Per contra*, learned counsel for respondent No.3 opposes submissions made on behalf of the appellants and submits that the impugned Award suffers from no infirmity as the compensation awarded to the appellants is just and fair. Hence, the present appeal deserves to be dismissed.

6. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in great detail. I find no



merit in the submissions advanced on behalf of learned counsel for the appellants.

7. It was the pleaded case of the appellants that deceased was 28 years old and was BAMS Doctor employed in Kirti Hospital, Sector-56, Gurugram; and that she was also doing practice at Krishna Clinic at village Naharpur Rupa and was earning Rs.1,10,000/- p.m. (Rs.60,000/-p.m. from Kirti Hospital and Rs.50,000/-p.m. from private practice). Appellants had sought to prove the said income of the deceased by examining PW3 Satish Kumar, HR Executive Aarvy Hospital, who had deposed that deceased was employed as RMO in their hospital w.e.f. 01.06.2017 vide Appointment Letter Ex.P3. PW3 has also proved Salary Slip Ex.P4 of the deceased, as per which, she was earning Rs.20,000/- for the months of June and July 2017; and Rs.21,500 from August 2017 to March 2018.

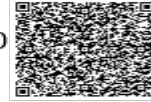
8. Further appellants had examined Vishal Raina, Manager, Vinayak Hospital Gurugram, (also inadvertently recorded as PW3), who had deposed that deceased had been appointed as RMO vide Appointment Letter Ex.P6 and her salary as per Salary Statement Ex.P7 is Rs.21,490/-. Appellants had also examined PW4 Girish Kohli, Computer Operator to prove the aforesaid facts. Relevant findings of the learned Tribunal in this regard are contained in para 21 of the Awarded dated 16.09.2022, which read as under:-

“21. From perusal of copy of appointment letter Ex.P3 dated 1.6.2017 it is evident that Usha Yadav was appointed to the position of RMO in Aarvy Hospital at the annual compensation of Rs.2,40,000/-which was to be reviewed as per company



policy. From the salary slips (from June, 2017 to March, 2018) Ex.P4 it is clear that salary of Dr. Usha Yadav was Rs.20,000/- in June, 2017 which was increased to Rs.21,500/-from the month of August, 2017 onwards. Although, appointment letter dated 31.8.2017 Ex.P6 of Vinayak Hospital has also been produced on record in which salary of the deceased is mentioned Rs.21,500/- per month but the same cannot be taken into consideration because perusal of the same shows that the deceased was required to work 8 hours per day and the same may vary according to shifts. It was a full time position. Even otherwise, a person cannot work at two places at the same time that too for the whole day. Moreover, appointment letter Ex.P3 of Aarvy Hospital prohibits her engagement in any other business or work without permission of the management. Not even a single document signed by Usha Yadav, while working as doctor in Vinayak Hospital, has been placed on record. For the same reason, salary slip Ex.P8 and appointment letter Ex.P9 of Kriti Hospital are also not believable. Moreover, as per PW4 Girish Kohli, Usha Yadav worked in their hospital only for 20 days before her death.

22. According to petitioner Narender, Usha Yadav was earning Rs.15,000 to 20,000/- per month from her private practice. In this regard, photocopy of register Ex.P1 has been placed on record. Further, perusal of Ex.P1 shows that the register starts from 1.3.2018 to 21.3.2018 and different amounts are shown charged from different persons. So, it cannot be the consultation charges only. No other record with regard to these patients has been produced on record. Moreover, the certificate that the register contains 1 to 122 pages, has been signed by Narender Kumar not by deceased Usha Yadav. Thus, statement of PW2 Narender and copy of register Ex.P1, regarding any income of deceased Usha Yadav from private practice does not inspire



confidence. Even by cursory glance, the register appears to have been prepared in one go and in the same hand writing.”

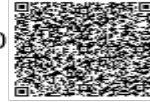
9. Accordingly, learned Tribunal had taken income of the deceased as Rs.21,500/- p.m. from her job as RMO in Aarvy Hospital, Gurugram. From the above, it is clearly seen that the learned Tribunal has correctly examined every aspect of the matter while assessing the income of the deceased. Nothing to the contrary has been pointed out by the learned Counsel for the appellant. As such, I find no error in the income as assessed by the Tribunal.

10. Further, age of the deceased was determined to be 29 years old at the time of death on the basis of her Postmortem Report Ex.P22. Accordingly, learned Tribunal had correctly made an addition of 40% towards future prospects; and applied multiplier of 17. As there were 2 claimants, learned Tribunal had correctly made deduction of 1/3rd. Learned Tribunal had further awarded an amount of Rs.40,000/- towards loss of consortium; Rs.15,000/- towards funeral expenses; and Rs.15,000/- towards loss of estate; thereby granting total compensation of Rs.41,63,600/-.

11. From the above facts, 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 Vs. Jasbir Kaur**” **Law Finder**

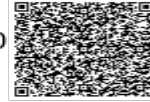
Doc ID # 64043 and “**Divisional Controller K.S.R.T.C. Vs. Mahadeva Shetty**



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. Furthermore, no ground is made out to enhance the compensation also for the following reasons. In respect of the accident in question, an FIR No. 0219 dated 22.03.2018 under Sections 279, 338 and 304-A IPC at Police Station Sadar, Gurugram was registered on the basis of the statement made by one Satbir Yadav, alleged eyewitness to the accident in question. The said Satbir Yadav had appeared as PW1 before the learned Tribunal and had filed his Affidavit Ex.PW1/A on 21.03.2018 and had specifically deposed that the accident in question had occurred due to rash and negligent driving of the offending vehicle by respondent No.1. In his cross-examination, Satbir Yadav, complainant had also stated that he had taken deceased to the hospital in his car and that he had been called by the claimants.

13. However, in the criminal trial faced by respondent No.1 before the Judicial Magistrate, 1st Class, Gurugram, complainant Satbir Yadav while appearing as PW4, has turned hostile and has now stated that he cannot identify the accused person in Court. Consequentially, respondent No.1 was

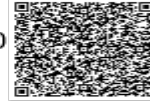


acquitted by the learned Judicial Magistrate, 1st Class, Gurugram, vide judgment dated 04.02.2026, for the following observations: -

“5.....Satbir Yadav (complainant) was examined as PW4 and he reiterated the contents mentioned in the complaint but he did not identify the accused present in the court. At this stage, this witness was declared hostile on request of learned APP for State and was cross-examined by him. During his cross-examination, he was confronted with his statement Ex.PW4/B but he stated that he had given the statement before police but he failed to identify the accused. He further denied the suggestion that he has deposed falsely being won over by accused. He was cross-examined by learned counsel for the accused at length. In his cross-examination, there were a lot of material contradictions and inherent infirmities. He further denied all the suggestions that he is deposing falsely in this case.

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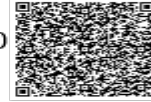
14. Eye-witness PW4 complainant and PW5 owner of the vehicle were the star witnesses of the prosecution being eye-witnesses who have been examined respectively. PW4, the sole alleged eye-witness, not only failed to identify the accused but his testimony is riddled with contradictions and inconsistencies. His version regarding the manner of accident, the offending vehicle and the driver could not withstand the test of cross-examination. Once the sole eye-witness turns hostile on material particulars, the prosecution case becomes highly doubtful. The entire case of the prosecution was based upon their testimonies, however, the said witnesses have not supported the case of the prosecution. The prosecution has completely failed to bring any incriminating evidence against the accused and has completely failed to connect the accused with alleged offences. The above



said witnesses were thoroughly cross-examined by learned APP for the state, after getting them declared not desirous of telling the truth but in their cross-examination also nothing incriminating against the accused could be adduced. They flatly refused to identify the accused. They stated that police had taken their signatures on blank papers. They completely did not support the case of prosecution.

The aforesaid examination-in-chief and cross-examination of PW4 depicts that the testimony of the complainant/only eye-witness is not worth credence. There are various material improvements and material contradictions in the statement of PW4 complainant, which have not been explained by the prosecution. Moreover, in the present case, PW4 was allegedly only the eye-witness and he was the star witness of the prosecution because as per prosecution version, he was also present along with the deceased at the time of occurrence, but he has denied this fact in his cross-examination, hence, a conviction on his sole testimony cannot be based upon. Moreover, perusal of the Statement Ex PW4/B and testimony of PW4 given in court on oath of the complainant shows that the complainant/only eye witness has improved his version and changing of his version has shattered his case completely and it creates shadow of doubt over the entire case of the complainant, that too, in absence of any corroborative evidence.”

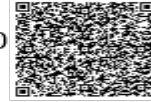
14. A bare reading of the above facts shows that before the learned JMIC, the claimant side has turned turtle on its previous statement made before the Tribunal. No doubt, proceedings under the Act have to be decided on the preponderance of probabilities. However, this Court cannot



shut its eyes in an ostrich like manner to the starkly diametrically opposite stance taken by the 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 is to be seen that the appellants have been held entitled to compensation by the Tribunal only on the basis of statement made by the eyewitness Satbir Yadav 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.

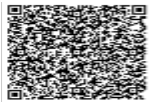
15. I am supported in my view by a judgment of this Court in “**Shri Ram General Insurance Company Limited Vs. Jeeto Devi & Others**” FAO-2231-2014 decided on 03.12.2019, wherein it is held that: -

*“(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.”*



16. 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."

17. Learned counsel for the appellants is unable to dispute or controvert the aforesaid facts and findings. Therefore, in actual fact, appellants ought to have been held liable for perjury, and no compensation was payable to them. Definitely, no case is made out for enhancement of compensation.

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

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

20.04.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

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