

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****115****FAO-1559-2024 (O&M)****Date of decision: 29.04.2026****Saroj Devi and others****...Appellant(s)****Vs.****Punjab State and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. H.S.Rakhra, Advocate
for the appellants.

*********NIDHI GUPTA, J.****CM-5845-CII-2024**

Prayer in this application filed under Section 151 CPC is for
condonation of delay of 265 days in refiling the accompanying appeal.

2. Heard.

3. For the reasons mentioned in the application which is duly
supported by affidavit of Clerk of Id. counsel for the applicants, the same is
allowed and delay of 265 days in refiling the appeal is condoned.

CM-5846-CII-2024

Prayer in this application filed under Section 5 of the Limitation
Act is for condonation of delay of 167 days in filing the accompanying appeal.

2. Heard.



3. For the reasons mentioned in the application which is duly supported by affidavit of the applicant/appellant No.1, the same is allowed and delay of 167 days in filing the accompanying appeal is condoned.

FAO-1559-2024 (O&M)

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.15,39,500/- awarded by the learned Motor Accidents Claims Tribunal, Amritsar (hereinafter referred to as “the learned Tribunal”) vide Award dated 16.07.2022 passed in MACP Case No. 131 dated 23.07.2019 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as “the Act”). The 5 claimants are the 49-year-old widow; 25-year-old son; 30-year-old married daughter; 29-year-old married daughter; and 24-year-old married daughter of the deceased Sripati Ram @ Raman, who was 49 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-Sripati Ram @ Raman had died due to the injuries suffered by him in a motor vehicular accident that took place on 24.06.2019 at about 3:00 p.m. due to the rash and negligent driving of a Bus bearing registration No. PB-02-AP-9920 (hereinafter referred to as “the offending vehicle”) being owned by respondents No.1, 2, 3 and 4; and driven by respondent No.5. 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 compensation.



3. The only ground on which learned counsel for the appellants seeks enhancement of compensation is that income of the deceased has been taken on the lower side as only Rs.10,000/- p.m. Further, interest has also been granted on the lower side. Learned counsel for the appellants also submits in para 7(b) of the present Grounds of Appeal, which reads as under:-

“That the Ld. Tribunal has also awarded the award from the passing of the Award i.e. from 16.02.2022 and not from the date of application i.e. the case was presented on 22.07.2022. The appellants humbly pray for the enhancement and modification of the award on this account as well.”

4. It is accordingly prayed that the present Appeal be allowed; and impugned Award be modified and compensation of Rs.40 lacs be awarded.

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

6. A perusal of the record of the case shows that it was the pleaded case of the appellants before the Tribunal that the deceased was working as a Supervisor with Tripati Finishing Factory and was earning Rs.20,000/- p.m. However, appellants failed to lead any evidence whatsoever in this regard. In the absence of any evidence, Id. Tribunal had assessed income of deceased as Rs.10,000/- p.m. as that of a casual worker. I find no error in the same.



7. Further age of the deceased was determined to be 49 years at the time of death on the basis of pleadings. Accordingly, learned Tribunal had made an addition of 25% future prospects; and had correctly applied multiplier of 13. As there were 5 claimants, learned Tribunal has made deduction of 1/4th towards personal expenses. It is my clear view that as the claimants No.2 to 5 are the major and married son and daughters of the deceased, they were not entitled to compensation. In support, I rely upon judgment of Hon'ble Supreme Court in **Deep Shikha v. National Insurance Company Ltd., (SC) : Law Finder Doc Id # 2729764** wherein it is held that *"Compensation under the Motor Vehicles Act, 1988 - Married daughter of deceased not entitled to compensation for loss of dependency unless proven financial dependency."* Accordingly, deduction of 50% ought to have been made by learned Tribunal towards personal expenses of the deceased.

8. Under the conventional heads, learned Tribunal had awarded an amount of Rs.16,500/- towards loss of estate; Rs.16,500/- towards funeral expenses; and Rs.44,000/- towards loss of consortium; thereby granting total compensation of Rs.15,39,500/-.

9. It is my view that the aforesaid compensation is just and fair in the facts and circumstances of the case. 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 **“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.

10. It may further be pointed out that in respect of the accident dated 24.06.2019, FIR No.77 dated 24.06.2019 under Sections 304-A, 279, 427 IPC was registered at Police Station Majitha Road, Amritsar on the statement made by eyewitness Chhote Lal son of Mukh Ram, who, in the FIR had reiterated the stand of the claimants in the Claim Petition. The pleaded case of the claimants before the Tribunal as mentioned in Para 2 of the Award is that: -

“2. Brief facts of the petition filed by claimants are that on 24.6.2019, Sripati Ram @ Raman alongwith his brother had gone to Ram Bagh for shopping on their respective bicycles. At about 3.00 PM, when they were returning home and they reached at Batala Road, deceased was crossing the road. In the meantime, offending vehicle i.e. Bus No. PB-02-AP-9920 came from the side of Batala Road, which was being driven by Mangaljit Singh driver respondent No. 5 in rash and negligent manner and hit into the bicycle of Sripati Ram @ Raman, due to which he fell down on the road alongwith bicycle and received grievous head injuries. He was immediately taken to Care & Cure Hospital by his brother who was coming behind him. On reaching hospital, he was declared dead by the medical officer



of the said hospital. Accident has taken place solely due to rash and negligent driving of bus by respondent No. 5. FIR No. 77 dated 24.6.2019 under Sections 304-A, 279 and 427 IPC, Police Station Majitha Road, Amritsar was registered. As such, respondents being owner and driver of the offending vehicle are liable to pay compensation to the claimants."

11. To prove their case, the claimants have examined eyewitness Chhote Lal as CW1 before the learned Tribunal; who has deposed that the accident in question had taken place due to the rash and negligent driving of the offending vehicle by respondent No.5. On the basis of testimony of Chhote Lal as CW1, alleged eyewitness, the learned Tribunal had decided issue No.1 in favour of the claimants; and had held that the accident dated 24.06.2019 had been caused due to the rash and negligent driving of the offending vehicle by respondent No.5; and had therefore held the claimants entitled to compensation.

12. It may however be pointed out that in the FIR No.77 dated 24.06.2019, respondent No.5, namely, Mangaljit Singh/Mangjeet Singh has been acquitted by the learned Judicial Magistrate, 1 Class, Amritsar vide judgment dated 16.04.2026 as *"The prosecution could not establish the identity of the accused beyond shadow of reasonable doubt. The complainant who was the eyewitness did not appear in the Court to establish the prosecution story."*

13. A bare reading of the above facts shows that before the learned JMJC, the claimant side has failed to support their case as stated before the Tribunal. On a direct Court query, learned counsel for the appellants has



been unable to give any reason as to why the eyewitness had chosen not to appear before the JMIC to support their case as stated 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 opposite stance taken by the claimant side in the criminal trial. Clearly, no credence can be attributed to the 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-Chhote Lal 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.5. 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. 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."

14. 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, 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.”

15. Learned counsel for the appellants is unable to controvert or dispute the aforesaid facts and findings. Thus, no ground is made out for enhancement of compensation.
16. In view of the above, present Appeal stands **dismissed**.
17. Pending application(s) if any also stand(s) disposed of.

29.04.2026

Divyanshi

Whether speaking/reasoned:

Whether reportable:

(NIDHI GUPTA)

JUDGE

Yes/No

Yes/No