IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-1140-2025(O&M)
Date of decision: 30.01.2026

Mamta & Others

...Appellant(s)

Vs.

Sandip Kumar & Others

...Respondent(s)

***

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sourabh, Advocate for
Mr. Sunil Kumar Bhardwaj, Advocate
for the appellants.

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NIDHI GUPTA, J.

CM-3382-CII-2025

This is an application under Section 151 CPC for condonation of delay of 1033 days in re-filing the appeal.

It is inter alia submitted by learned counsel for the appellants that delay of 1033 days in re-filing the appeal has occurred during the Pandemic of Covid-19. It is submitted that in view of the judgment of the Hon'ble Supreme Court, the same be condoned.

Heard.

Even as per the judgment of Hon'ble Supreme Court, keeping in view the pandemic COVID-19, delay only up to 31.03.2022 is to be condoned

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and limitation would start from 01.04.2022. Even if that were so, there is substantial delay of 651 days in filing the present appeal.

Record reveals that present appeal was firstly filed on 21.05.2020 and was re-filed on 23.01.2025. As per judgment of the Hon'ble Supreme Court and this Court, limitation would start from 01.04.2022. Even if limitation is taken to start from 01.04.2022 in terms of judgment of the Hon'ble Supreme Court, even then there is an inordinate delay of 651 days in re-filing the present appeal.

Thus, the above cited reason does not constitute sufficient cause to condone extraordinary delay of 1033 days in re-filing the present appeal. It is cardinal principle of law that delay of each day has to be explained. Reliance may be placed upon recent judgments of the Hon'ble Supreme Court in **"Shivamma (Dead) by LRs Vs. Karnataka Housing Board & Others" Civil Appeal No.11794 of 2025 decided on 12.09.2025;** and in **Pathapati Subba Reddy v. Special Deputy Collector (LA), (SC) : Law Finder Doc Id # 2542600.** To condone such an inordinate delay, would be tantamount to declaring the Law of Limitation as redundant; and would also be prejudicial to the rights of the opposite party as rights of parties get crystallised over time.

As such, no ground is made out for condoning inordinate delay of 1033 days. Present application accordingly stands **dismissed**.

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<u>MAIN CASE</u>

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.12,01,526/- awarded by the Motor Accident Claims Tribunal, Bhiwani (hereinafter 'the learned Tribunal') vide Award dated 13.01.2020 passed in MACP Case No.1747 dated 16.12.2017 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). The three claimants are the widow and two minor children of deceased Anil, who was 31-35 years old at the time of accident.

2. Brief facts of the case are that the ld. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that deceased Anil had died due to the injuries suffered by him in a motor vehicular accident that took place on 28.04.2017 at about 4/4:15 pm due to the rash and negligent driving of Dumper bearing registration No.HR-39B-6745 (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 amount.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that income of the deceased has been wrongly

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assessed. Less amount has been awarded towards medical treatment; and transportation charges should have been awarded as Rs.25,000/-.

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. It was the pleaded case of the appellants before the learned Tribunal that prior to the accident, the deceased was doing job of wall painting and was earning Rs.50,000/- per month. However, the appellants failed to lead any evidence whatsoever regarding the said alleged avocation and income of the deceased. Claimant No.1 as PW1 has stated that she does not know whether her husband was an Income Tax Payee or Assessee. No documentary evidence was led by the claimants in respect of income. As such, the learned Tribunal had rightly taken income of the deceased as Rs.6177.60/- per month as per DC rates.

6. Further, age of the deceased was determined to be 31 years 4 months and 3 days on the basis of Matriculation Certificate (Ex.P6), wherein his date of birth is mentioned as 25.12.1985. Accordingly, the Tribunal had correctly made an addition of 40% towards future prospects; thereby calculating monthly income of the deceased to be Rs.8648.64/-. Multiplier of 16 was also correctly applied. As there were three claimants, deduction of 1/3rd was correctly made. An additional amount of Rs.24,500/- was also awarded to the appellants as medical expenses of the deceased on the

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basis of Bill (Mark PA). Therefore, calculating total compensation to be Rs.11,31,525.92/- in the following manner:-

Head	**Amount**
Loss of dependency	Rs.11,07,025.92/-
Loss of estate	Rs.15,000/-
Funeral expenses	Rs.15,000/-
Loss of consortium	Rs.40,000/-
Expenses spent on treatment of the deceased	Rs.24,500/-
Total	**Rs.12,01,525.92/- rounded off to Rs.12,01,526/-**

7. From the above, it is clear that a very 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

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misplaced sympathy, generosity and benevolence cannot be the guiding factor for determining the compensation.

8. In view of the above, present appeal stands **dismissed** on grounds of delay as well as on merits.

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

30.01.2026 **(Nidhi Gupta)**
Sunena **Judge**

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

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