

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****119****FAO-2523-2024(O&M)****Date of decision: 22.05.2026****Saneh Pal****...Appellant(s)****Vs.****Abhi Yadav & Others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Atul Yadav, Advocate
for the appellant.

*********NIDHI GUPTA, J.****CM-9467-CII-2024**

This is an application under Section 5 of the Limitation Act for condonation of delay of 105 days in filing the appeal.

It is mentioned in Para 1 of the present application that:-

"2. That the appellant suffered injuries in the accident. He remained admitted in the Hospital for quite long time and he has incurred an amount of Rs. 15.00 lac on his treatment. The learned Tribunal has passed the award on 02.11.2023 and granted compensation of Rs. 13,92,000/-. The Insurance Company has not deposited the awarded amount in time, the appellant was not able to work after receiving injuries in the accident. The appellant could not file appeal within the period of limitation due to paucity of funds after arranging the amount. The appellant is now filing the present appeal. The delay has



occurred due to the above mentioned reasons which was neither intentional nor willful. The appellant is not going to be benefitted by filing the delayed appeal.”

The above-cited reason does not constitute sufficient cause to condone extraordinary delay of 105 days in filing the present appeal. As such, the sole reason cited by the appellant is not sufficient ground to condone extraordinary delay of 105 days in filing the appeal. Moreover, it is cardinal principle of law that delay of each day has to be explained. Reliance is placed upon judgment of 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**. As such, no ground is made out for condoning inordinate delay of 105 days. Present application accordingly stands **dismissed**.

CM-9468-CII-2024

Present application under Order 41 Rule 27 read with Section 151 CPC is filed for permission to place on record Annexure A1 Disability Certificate by way of additional evidence.

It is submitted by learned counsel for the applicant/appellant that the appellant suffered injuries on various parts of the body. His liver was damaged in the accident. The Medical Board has issued Disability Certificate specifying the disability at the rate of 5%. The said Certificate was given on 02.11.2023 and on the same date i.e. 02.11.2023 the Award was passed. Therefore, the appellant could not place on record the Disability Certificate



on the record of the learned Tribunal. The appellant now wants to produce on record the Disability Certificate by way of additional evidence.

Heard.

I find no merit in the submissions advanced on behalf of the applicant/appellant.

A perusal of the Disability Certificate (Annexure A1) shows that the same was issued on 18.10.2023. As such, contention of the applicant/appellant that the same was received by him only on 02.11.2023 is incorrect. Furthermore, if Medical Board had been constituted and had examined the applicant, then this fact could have been brought to the notice of the learned Tribunal and applicant could have sought time to place on record the Disability Certificate. However, no such fact has been brought to the notice of this Court by the learned counsel. On the contrary, impugned Award shows that in Para 43 thereof, the learned Tribunal has categorically recorded that *“the petitioner has failed to prove that he had suffered any permanent disability.”*

Lastly, a perusal of the said Disability Certificate (Annexure A1) does not inspire confidence of this Court as it is stated therein that *“Alleged H/o RTA on 17/12/2022. Now patient has pain (left ankle). Permanent disability = 5%.”* It is not clear to this Court as to how pain in left ankle, constitutes or implies permanent disability of 5%. Despite being a layperson, it does not require knowledge of medicine to know that pain in left ankle



cannot by any stretch of the imagination constitute permanent disability. Moreover, although the said Certificate is shown to be issued by the Office of Civil Surgeon, Gurugram, however, the above said findings are shown to be recorded by Aarvy Hospital, Gurugram. Even the names of the doctors who had allegedly examined the appellant from Civil Hospital, Gurugram are not mentioned on the said Certificate. Ld. Counsel for the applicant is unable to explain these discrepancies. Therefore, present application stands **dismissed**.

MAIN CASE

Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.13,92,000/- awarded by the Motor Accident Claims Tribunal, Gurugram (hereinafter referred to as 'the learned Tribunal') vide Award dated 02.11.2023 passed in MACP No.55 dated 28.03.2023 filed under Section 166 of 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 the appellant had suffered injuries in a motor vehicular accident that took place on 17.12.2022 due to the rash and negligent driving of Maruti Celerio Car bearing registration No.DL-9-CAN-1739 (hereinafter referred to as "the offending vehicle") being driven by respondent No.1, owned by respondent No.2, and insured by respondent No.3. The compensation has been awarded along with interest @ 7.5% per



annum. Respondents were held jointly and severally liable to pay the compensation.

3. Learned counsel for the appellant seeks enhancement of compensation by submitting that compensation awarded to the appellant is on the lower side as the appellant was running a shop of electrical items and also doing the job of installation of electric fitting and from this work he was earning Rs.50,000/- per month. The appellant was running his shop under the name and style RB Electric INC which was registered in the name of his wife Smt. Sneha Lata. Income Tax returns were also filed in her name. The appellant placed on record GST Registration Certificate of the above-mentioned shop as Ex.E-27. But the learned Tribunal has discarded the income of the appellant only on the ground that the firm was registered in the name of his wife and income tax return and GST number were also in her name. It is submitted that his wife Smt. Sneha Lata has also entered into witness box and deposed categorically that her husband was running the shop in her name and she is not doing any business. The appellant was running a shop of selling the electrical items and also working for fitting the electric appliance and he was earning Rs.50,000/- per month. The Tribunal has lost sight of the fact that the wife of the appellant was a housewife, and she has no independent income, rather the appellant was running the business by registering a firm in the name of his wife. Therefore, the learned Tribunal ought to have taken the income at the rate of Rs.50,000/- pm.



4. It is further submitted that the learned Tribunal has not awarded future loss of earning on the ground that there was no disability. In fact, the appellant was having disability which was issued later and the same is now sought to be produced by way of additional evidence. Although appellant suffered injuries in his liver also. His liver was damaged, but the Medical Board has overlooked his injuries and only assessed the disability with regard to the physical injuries on his leg at the rate of 5%. Therefore, the learned Tribunal ought to have awarded future loss of income while considering the disability of the appellant.

5. It is also submitted that the compensation awarded under the head of loss of income during the treatment also needs to be re-calculated in view of his income. Therefore, the Award needs modification under this head also. Interest is also on the lower side. It is accordingly prayed that the present appeal be allowed and Award may be modified/enhanced as prayed by the appellant in the Claim Petition.

6. No other argument is made on behalf of the appellant. 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, he was working as an Electrician and earning Rs.50,000/- per month. However, the appellant himself while appearing as PW5 has admitted in his cross-



examination that the shop in the name and style of “RB Electric Inc” is registered in the name of his wife Smt. Saneh Lata and that Income Tax Return was also being filed in her name. The appellant as PW5 has also admitted that he has never filed any Income Tax Return in his name. Contention of learned counsel for the appellant that in actual fact, the appellant was doing the work and earning Rs.50,000/- per month and only shop was registered in the name of his wife, is not substantiated by any evidence on record as the appellant had failed to show any income in his name. The appellant has even failed to prove that he is a skilled Electrician. Besides, the GST certificate which has not been proven in accordance with law, appellant has not produced any documentary proof to show that he was running an electrical shop. In this situation, the learned Tribunal has correctly assessed income of the appellant as Rs.10,098/- per month as that of an unskilled daily wage labourer on the basis of Minimum Wage Notification dated 14.10.2022 issued by the Labour Department, Haryana.

8. Furthermore, as per the Discharge Summary (Mark A1), in the accident dated 17.12.2022, the appellant had suffered liver injury hemoperitoneum with mesenteric tear, blunt trauma chest (left) with hemothorax with multiple ribs fracture, lung contusions, fracture left clavicle and comminuted displaced fracture left tibial & fibula for which he had undergone surgery. The record also shows that the petitioner was admitted in Aarvy Hospital, Gurugram on 17.12.2022 and discharged on 02.01.2023.



9. The appellant had produced Medical Bills/receipts (Ex.P1 to Ex.P24) for an amount of Rs.12,60,927/- which were proved by examining Phool Kumar, Senior Accountant in Rotary Blood Centre, Gurugram as PW1; Satish Kumar, Senior Executive in Aarvy Hospital, Sector 90, Gurugram as PW2; Sachin Kaushik, Physiotherapist, Curativo Clinic, Sector 52, Gurugram. Accordingly, keeping in view the aforesaid facts, the Tribunal had duly reimbursed the medical expenses incurred by the appellant; and further awarded compensation in the following manner:-

Head	Amount
Medical expenses	Rs.12,60,927/-
Loss of income during treatment period	Rs.30,294/-
Pain and suffering	Rs.50,000/-
Special diet	Rs.10,000/-
Attendant charges	Rs.10,000/-
Transportation charges	Rs.10,000/-
Loss of amenities	Rs.20,000/-
Total	Rs.13,91,221/- rounded off to Rs.13,92,000/-

10. It is necessary to point out that in respect of the accident dated 17.12.2022, on the statement made by wife of the appellant namely Ms. Sneh Lata, an FIR No.716 dated 18.12.2022 was registered under Sections 279, 337, 338 and 427 IPC at Police Station Sector 10, Gurugram against respondent no.1. However, vide judgment dated 05.02.2025 passed by learned Judicial Magistrate, 1st Class, Gurugram, the respondent No.1 has



been acquitted as, both the complainant Sneh Lata while appearing as PW1 and appellant-injured while appearing as PW2 have turned hostile.

11. On the other hand, the appellant had appeared before the Tribunal as PW5 and had deposed through his Affidavit Ex. PW5/A. In regard to the evidence of the appellant, it is recorded in Para 17 of the Award that:

“17. To prove above-mentioned facts the petitioner himself has appeared in the witness-box as his own witness, as PW-5. In his examination-in-chief, by virtue of affidavit Ex.PW-5/A, the PW-5 has deposed the same details, with regard to the manner in which the accident had taken place on 17.12.2022. According to PW-5 on the way to Hayatpur Bus Stand when he reached near Rampura Flyover, on the road leading towards Village Hayatpur District Gurugram, the offending vehicle came and hit his motorcycle bearing registration No. HR-34D-8795. As per PW-5 due to above mentioned collision he had suffered grievous injuries, including fracture in his left side ribs. According to PW-5 after the accident some passerby had informed his wife, who reached the spot and found the offending vehicle along with its driver present there. As per PW-5 the driver of the offending vehicle had disclosed his identity to his wife.”

12. Complainant Sneh Lata also had appeared before the learned Tribunal as PW4. Evidence of Sneh Lata is recorded by learned Tribunal in Para 19 of the Award is as follows: -

“19. To provide support & corroboration to his above-mentioned testimony the petitioner has examined Smt. Saneh Lata, as PW-4. She is wife of the petitioner and also the author of FIR pertaining to the accident in question. The PW-4 has deposed the same details with regard to manner of the accident as deposed by the PW-5. The PW-4 in her examination-in-chief, by way of affidavit ExPW-4/A, has deposed that on 17.12.2022 at about 7.30 P.M. her husband had gone to Bus Stand Hayatpur on his motorcycle. According to PW-4 she had received information



that her husband had met with an accident near Rampura Flyover, on the road leading towards village Hayatpur District Gurugram. As per PW-4 on receipt of above mentioned information she had rushed to the spot and found that a crowd was present there, and the motorcycle of her husband, and offending vehicle were present. As per PW-4 the driver of offending vehicle was also present at the spot, and that the crowd present there had told her that the offending vehicle had hit the motorcycle of her husband. The PW-4 has further deposed that the driver of offending vehicle had disclosed his identity as Abhi Yadav. As per PW-4 with the help of persons present at the spot she had shifted the petitioner to Aarvy Hospital, Sector-90 Gurugram. The PW-4 has further deposed that with regard to above mentioned accident the FIR was lodged on 18.12.2022, on the basis of her statement."

13. Whereas, while appearing before the learned JMIC as PW2, appellant has not supported his above testimony. Even the complainant Snehlata had appeared before the JMIC as PW1 and has given a totally different narration of events. Relevant observations of the learned JMIC in respect of the evidence of the appellant and Snehalata are as follows:

"6. PW1 Snehlata (Complainant) has reiterated the contents of her complaint and proved her statement 'Ex.PW1/A' which bears her signature at point 'A'.

During her cross-examination by Ld. Counsel for accused, she admitted that on 17.12.2022, her husband Snehpal met with an accident but she could not tell which vehicle caused the accident and who caused the accident. She further stated that she did not see the person who caused the accident of her husband and she cannot identify the accused. Thereafter, she was re-examined by the Ld. APP for State and during it, she denied making statement 'Ex.PW1/A' to the police but she identified her signatures at point 'A' and stated that she signed on 'Ex.PW1/A' without



reading it. She further stated that she does not know the number of vehicle which caused the accident of her husband. She further stated that she cannot identify the accused present in the Court. 7. PW2 Snehpal (Injured) deposed that he has no knowledge about this case.

At this stage, he was declared hostile at the request of learned APP for the State. During his cross-examination by learned APP for the State, he denied making statement 'Ex.PW2/A' to the police. He further stated that on 17.12.2022, vehicle bearing No.DL-9CAN-1739 did not cause his accident."

Consequently, respondent no.1 came to be acquitted vide judgment dated 05.02.2025.

14. 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 claimants' side before the learned Tribunal. It would therefore appear that the claimants' side 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 whole-sale 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."

15. 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.”

16. Learned counsel for the appellant is unable to dispute or controvert the aforesaid facts and findings. In view of the above discussion, no ground is made out for enhancement of compensation.

17. The present appeal accordingly stands **dismissed** on grounds of delay as well as on merits.

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

22.05.2026

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No