

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****114****FAO-3683-2023(O&M)****Date of decision: 16.01.2026****Birmati & Others****...Appellant(s)****Vs.****Ankush Kamboj & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Jitender K. Sehrawat, Advocate
for the appellants.

Mr. D.K. Prajapati, Advocate
for respondent No.3.

NIDHI GUPTA, J.
CM-12090-CII-2023

This is an application under Section 5 of Limitation Act for
condonation of delay of 242 days in filing the appeal.

The only reason cited by learned counsel for the applicants-
appellants for not filing the present appeal within limitation is in Para 3 of
the said application, which reads as follows:-

*"3. That the present applicant-appellant no.1 widow lady and
who lost her young son in the accident and her son was the
earning hand of her family and the appellant could not arrange
the sufficient funds for filing the present appeal before this
Hon'ble Court."*



Ld. Counsel for the applicant submits that the appellants are poor people and did not possess sufficient funds to enable them to file the present appeal, thereby leading to the delay of 242 days. It is accordingly prayed that the said delay be condoned in the interest of Justice.

Ld. counsel for the non-applicant/respondent No.3/Insurance Company opposes submissions of the applicant and submits that the compensation amount of Rs.13,15,200/- was disbursed to the appellants vide order dated 11.11.2022 passed by the learned Additional District Judge, Hisar. A copy of the said order has been handed over in the Court, which is taken on record. Learned counsel for the non-applicant submits that therefore, compensation was released to the appellants as far back as on 11.11.2022; whereas the present appeal was filed only on 02.06.2023 after inordinate delay of 242 days. It is argued that clearly therefore, the appellant possessed sufficient funds to file the present appeal within time. Therefore, no ground is made out for condonation of such long delay.

Heard.

I find merit in the submissions advanced on behalf of learned counsel for the Insurance Company.

Learned counsel for the applicants-appellants has been unable to show sufficient cause for condonation of inordinate and extraordinary delay of 242 days in filing the present appeal. Present application accordingly stands dismissed.

**MAIN CASE**

Present appeal has been filed by claimants seeking enhancement of compensation of Rs.13,15,200/- awarded by the Motor Accident Claims Tribunal, Hisar (hereinafter 'the learned Tribunal') vide Award dated 05.07.2022 passed in MACP Case No.9 dated 04.01.2019 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). The 3 claimants are the 44-year-old mother, 24-year-old brother, and 23-year-old brother of deceased Kuldeep @ Ram Jawari, who was 30 years old at the time of accident.

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 deceased Kuldeep @ Ram Jawari had died due to the injuries suffered by him in a motor vehicular accident that took place on 23.10.2018 due to the rash and negligent driving of Truck bearing registration No.HR-58B-3621 (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 @ 6% 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 taken on the lower side as only Rs.9,000/- per month. It is submitted that the



appellants had proven on record that the deceased was a Contractor of Whitewash and was earning Rs.30,000/- per month. Thus, there was no ground to take income of the deceased as only Rs.9,000/- per month. It is further submitted that nothing has been awarded by way of consortium. It is submitted that each of the claimants is entitled to Rs.40,000/- by way of consortium. Even amounts under the other head are on the lower side. It is accordingly prayed that the present appeal be allowed and the impugned Award be modified by enhancing the compensation.

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

5. 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 appellants.

6. It was the pleaded case of the appellants that deceased was a Contractor of Whitewash and earning Rs.30,000/- per month. However, no evidence was led by them to prove their said contention. Only self-serving statement of claimant No.1 as PW1 is there stating that deceased was Contractor of Whitewash and earning Rs.30,000/- per month. However, no documentary evidence was produced by the appellants. Accordingly, learned Tribunal had correctly taken income of the deceased as Rs.9,000/- per month



as that of an unskilled labourer on the basis of relevant Minimum Wage Notification. I find no error in the same.

7. Age of the deceased was proved to be 30 years on the basis of his MLR (Ex.P5), which was proved by PW5 Dr. Saket. Learned Tribunal had accordingly made an addition of 40% towards future prospects; and correctly applied multiplier of 17. Further, as the deceased was a Bachelor at the time of accident, learned Tribunal had correctly made a deduction of 50% towards personal expenses. Learned Tribunal had further awarded Rs.15,000/- as compensation for funeral expenses and Rs.15,000/- towards loss of estate. No doubt, nothing has been awarded by the learned Tribunal by way of consortium to the claimants. However, a 3-Judge Bench judgment of the Hon'ble Supreme Court in the case of ***“Reshma Kumari v. Madan Mohan (SC) 2013(5) Scale 160; Law Finder Doc ID # 421379;*** has held that: *“Motor Vehicles Act, 1988, Section 168 - Section 168 provides that amount of compensation awarded by the Claims Tribunal which appears to it to be just - The expression, 'just' means that the amount so determined is fair, reasonable and equitable by accepted legal standards and not a forensic lottery - Obviously 'just compensation' does not mean 'perfect' or 'absolute' compensation - The just compensation principle requires examination of the particular situation obtaining uniquely in an individual case.”* Even otherwise, present appeal is liable to be dismissed on grounds of delay.



8. In view of the above noted factual and legal position, the present appeal accordingly stands **dismissed** on grounds of delay as well as on merits.

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

16.01.2026

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No