



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

**FAO No.4755 of 2019 (O&M)
Date of decision: 29.04.2026**

Gurinder Pal Singh

...Appellant

Versus

Surjit Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present :- Mr. Bhupinder Singh, Advocate
for the appellant.

Ms. Kanchan Sidhu, Advocate
for respondent No.3-Insurance Company.

NIDHI GUPTA, J.

CM No.15942-CII of 2019

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 140 days in filing the present appeal.

2. Only reasons given by the applicant-appellant seeking condonation of inordinate delay of 140 days is in para 3 of the present application which reads as follows: -

“3. That the appellant is very poor person and was not able to pay the fee of the counsel to be engaged to file the appeal before this Hon’ble High Court. Thereafter, appellant arranged the amount to pay the counsel’s fee



and approached the counsel for the appellant for filing the appeal. That due to the abovesaid reason, the delay of 140 days has been occurred.”

3. The aforesaid reason submitted by the applicant-appellant is cryptic, vague and general and does not constitute sufficient cause for condonation of inordinate delay in filing the present application. Despite Court query, Id. Counsel for the applicant is unable to inform this Court as to on which date the compensation amount of Rs.5 lacs was received by the applicant. Therefore, the applicant is unable to substantiate his plea that he did not have sufficient funds for filing the appeal within limitation.

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-appellant. 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 140 days. Present application accordingly stands **dismissed**.

**FAO No.4755 of 2019 (O&M)**

The present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.5 lacs awarded by the learned Motor Accidents Claims Tribunal, Kurukshetra (hereinafter referred to as “the learned Tribunal”) vide Award dated 21.11.2018 passed in MACP Case No.441 dated 19.09.2017 filed under Sections 166, 140 and 141 of the Motor Vehicles Act, (hereinafter referred to as “the Act”).

2. Brief facts of the case are that the learned Tribunal upon appraisal of the pleadings, and the oral and documentary evidence adduced by the parties, had concluded that that the appellant had suffered injuries in a motor vehicular accident that had taken place on 26.02.2017 due to the rash and negligent driving of a Truck bearing registration No.HR-37D-5818 (hereinafter “the offending vehicle”) being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. The abovesaid compensation of Rs. 5 lacs has been awarded along with interest @ 7.5% per annum. All the respondents were held jointly and severally liable to pay the amount of compensation.

3. Learned counsel for the appellant seeks enhancement of compensation by submitting that the appellant had remained hospitalised from 27.02.2017 till 06.03.2017 i.e for a period of 08 days. In the accident dated 26.02.2017, the appellant has also suffered 24% permanent disability. Prior to the accident, the appellant was working as an agriculturalist however due to his disability, the appellant is unable to do his previous work. It is submitted that the appellant has still not recovered as his right



leg was badly injured and he has become totally disabled after the accident. Yet, nothing has been awarded towards future medical expenses. It is submitted that in the aforesaid facts and circumstances of the case very meagre compensation has been awarded to the appellant.

4. Learned counsel further contends that the appellant had spent Rs. 14 lacs on his treatment, medicines operation etc.; more than Rs.50,000/- on transportation and on special diet etc. It is contended that therefore the appellant is entitled to get Rs.06 lacs as compensation for the mental pain, agony and trauma suffered by the appellant due to the fatal accident.

5. Learned counsel further submits that in awarding the meagre compensation, the learned Tribunal has failed to appreciate that the appellant had remained hospitalized during which period one attendant had also remained with him to assist him to do the daily activities. However, nothing has been awarded by the learned Tribunal towards Attendant Charges.

6. It is further submitted that at the time of accident, the appellant was only 26 years old and was an agriculturalist and was also running a milk dairy and earning Rs.25,000/- per month. Yet, the learned Tribunal has taken the monthly income of the appellant to be only Rs.8280/- per month which deserves to be enhanced. Even interest is on the lower side. It is accordingly prayed that the present appeal be allowed and the compensation be enhanced.



7. *Per contra* learned counsel for respondent No.3-Insurance Company vehemently opposes the submissions advanced on behalf of the appellant and submits that as no evidence has been led by the appellant to prove his alleged income or avocation. Demand of the appellant of medical expenses to the tune of Rs.14 lacs is highly exaggerated and unjustified as the appellant has produced bills only for an amount of about Rs.2,14,000/- which has been duly reimbursed to him.

8. It is further submitted that it is misleading for the appellant to contend that he had suffered 24% permanent disability in the accident in question. It is pointed out that the said disability was qua a particular limb; and the said disability qua the whole body is calculated to be 17% approximately. It is further submitted that in terms of judgment of the Gauhati High Court in *M/s Liberty General Insurance Ltd. vs. Dipak Baishya and 2 Ors. Law Finder Doc Id # 2863883*, it has been held that functional disability has been to be calculated in relation to the loss of earning capacity. It is contended that in the present case the appellant has failed to prove any income. Consequentially, he is not entitled to any loss of future earnings. Yet, learned Tribunal has awarded an amount of Rs.2,70,256/- towards the loss of earning capacity. Accordingly, it is prayed that the present appeal be dismissed.

9. No other argument is raised on behalf of learned counsel for the parties. I have heard ld. counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellant.



10. As noted above, it was the pleaded case of the appellant before learned Tribunal that prior to the accident, he was working as an agriculturalist and running a milk dairy and earning Rs. 25,000/- per month. However, no evidence whatsoever has been produced by the appellant to prove his said contention. Accordingly, in the absence of any evidence the learned Tribunal has correctly assessed income of the appellant as Rs.8280/- per month on the basis of the Minimum Wages as applicable in the State of Haryana in the year 2017. I find no error in the same.

11. Further although the appellant claimed to be 26 years old at the time of accident however, he has failed to produce any proof of age. Accordingly, on the basis of the disability certificate, treatment record, as also the medical report Exhibit P-9 wherein age of the appellant is mentioned as 32 years, the learned Tribunal had determined the age of the appellant as 32 years. So, the learned Tribunal had applied multiplier of 16.

12. As regards the disability suffered by the appellant, PW5 Dr. Anoop Mehta has deposed that the appellant had suffered 24% disability in his right leg/limb. The said fact was also proved from the disability certificate Exhibit P-24. However, during his cross-examination, PW-5 Dr. Anoop Mehta had admitted that the said disability of 24% was qua the particular limb and not qua the whole body; and if the said disability is assessed qua the whole body the same will reduce by 30%. Accordingly, the Tribunal had assessed the disability of the appellant qua the whole body as 17% approximately. I find no error in the same as well. Thus, future

earning of the appellant was calculated by the learned Tribunal as Rs.16,891/-. Moreover, Learned counsel for the appellant has failed to show as to how the said disability has impeded work of the appellant.

13. Further although the appellant has claimed that he had spent Rs.14 lacs on his treatment however, the said claim is fantastical. No evidence to this effect has brought on record. The learned Tribunal had examined in detail all the medical bills and other medical record Exhibit P-9 to P-23 produced by the appellant. As per which, the appellant had spent an amount of Rs.2,13,592/- on his treatment; which was rounded off to Rs.2,14,000/- by the Tribunal. Further the Tribunal has awarded total compensation of Rs.4,99,256/- (rounded off to Rs.5 lacs) as follows: -

Sr.No.	Heads	Calculation (in Rs.)
1.	Treatment expenses	Rs.2,14,000/-
2.	For pain and suffering	Rs.10,000/-
3.	For special diet	Rs.5,000/-
4.	For suffering disability/ earning capacity	Rs.2,70,256/-
	Total	Rs.4,99,256/- (rounded off) Rs. 5 lacs

14. It is my clear view that in the facts and circumstances of the case as noted above, a more than just and fair compensation has been awarded to the appellant. 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. 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.

15. It may also be pointed out that before the learned Tribunal, the appellant had himself appeared as PW-1 and had deposed that the accident in question had taken place due to the rash and negligent driving of the offending vehicle by respondent No.1. On the basis of the testimony of the appellant, the issue No.1 was decided in favour of the appellant/claimant and it was held by the learned Tribunal that the accident dated 26.02.2017 had been caused to the rash and negligent driving of the offending vehicle by the respondent No.1; and consequentially, the appellant was held entitled to compensation.

16. It may, however, be pointed out that in respect of the accident dated 26.02.2017, an FIR bearing No.29 dated 28.02.2017 under Sections, 279, 337, 338 IPC had been registered at Police State Ismailabad against the respondent No.1 on the statement made by the appellant/complainant. In the aforementioned FIR No.29 dated 28.02.2017, the respondent No.1 has been acquitted by the learned Judicial Magistrate 1st Class, MIC Pehowa (hereinafter referred to as “learned JMIC”) vide judgment dated 15.05.2019 as the appellant while appearing before the criminal Court as



PW-4 has turned hostile. Relevant finding of the learned JMIC in paras 9 and 10 of the judgment dated 15.05.2019 is as follows:-

“9. Though prosecution has examined 5 witnesses but it failed to bring home the guilt of accused beyond shadow of reasonable doubt as the complainant Gurwinder Pal and eye witness and injured Malak Singh, who are the paramount witness of the present case, has failed to support the prosecution case and has been declared hostile.

10. The complainant Gurvinder Pal has been examined as PW4 and he deposed that he has seen the accused present in the Court. The accused present in the Court not a person who cause the accident. Upon being declared hostile, in his cross examination by learned APP for state, he has denied his statement Ex.PW1/A earlier made to police and has categorically denied the allegations levelled by prosecution against accused. However, he identified his signature over Ex.PW1/A, but he stated that his signature was obtained on the blank paper. He also denied the suggestion that he has deposed falsely being won over by accused.”

17. A bare reading of the above facts shows that the appellant has turned turtle on his previous statement made before the learned JMIC. 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 claimant in the criminal trial. Clearly, no credence can be attributed to the contrary statements made by the claimant side before the learned



Tribunal. 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.

18. 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.”*

19. 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.”

20. Learned counsel for the appellant is unable to dispute or controvert the aforesaid facts and findings. Thus, no ground is made out for enhancement of compensation.

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

22. Pending applications, if any, also stand disposed of.

29.04.2026

seema

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No