

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****132****FAO-1218-2023(O&M)****Date of decision: 16.04.2026****Smt. Chandra Prabha & Others****...Appellant(s)****Vs.****Kawaljeet & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- Mr. Wazir Singh, Advocate
for the appellants.****Mr. Punit Jain, Advocate
for respondent No.3/Insurance Company.***********NIDHI GUPTA, J.****CM-4579-CII-2023**

This is an application under Section 151 CPC for condonation of delay of 95 days in re-filing of the appeal.

After going through the contents of the application, which is supported by affidavit of Clerk of learned counsel for the appellants, the same is allowed subject to all just exceptions and delay of 95 days in re-filing the present appeal is condoned.

CM-4580-CII-2023

This is an application under Section 5 of Limitation Act for condonation of delay of 58 days in filing the appeal.



After going through the contents of the application, which is supported by affidavit of the appellant No.1, the same is allowed subject to all just exceptions and delay of 58 days in filing present appeal is condoned.

MAIN CASE

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.13,93,000/- awarded by the Motor Accident Claims Tribunal, Karnal (hereinafter 'the learned Tribunal') vide Award dated 07.03.2022 passed in MACP-66 dated 31.07.2020 filed under Sections 166 and 140 of Motor Vehicles Act (hereinafter "the Act"). The 5 claimants are the 46-year-old widow, 70-year-old mother, 29-year-old son, 26-year-old son and 15-year-old daughter of deceased Arvind Kumar, who was 50 years old at 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 the deceased Arvind Kumar had died due to the injuries suffered by him in a motor vehicular accident that took place on 29.02.2020 due to the rash and negligent driving of Truck bearing registration No.HR-46D-6309 (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.



3. Learned counsel for the appellants seeks enhancement of compensation by submitting that income of the deceased has been wrongly assessed as only Rs.9320/- per month. It is submitted that the appellants had proven on record that deceased was a skilled Driver, who was employed with M/s Nanak Freight Carrier Transport, Babarpur Mandi, Panipat and was earning Rs.20,000/- per month. It is contended that therefore, income of the deceased had been taken on the lower side as only Rs.9320/- per month.

4. It is further submitted that in view of the fact that the appellants had duly proved employment and income of the deceased, future prospects ought to have been awarded @ 30%; whereas the learned Tribunal has added future prospects @ 25%.

5. Learned counsel further submits that even all the claimants have not been awarded consortium as required as per law. Only an amount of Rs.40,000/- has been awarded to the claimant No.1/widow. Nothing has been awarded for transportation and attendant charges. Amounts under the head of love and affection should have been awarded @ Rs.1 lakh. Interest is also on the lower side which should be 18%. It is accordingly prayed that the present appeal be allowed; and the impugned Award be modified.

6. On the asking of the Court, Mr. Punit Jain, Advocate accepts notice on behalf of the respondent No.3/Insurance Company. Learned counsel opposes the submissions advanced on behalf of the appellants and



submits that the impugned Award suffers from no error; and the present appeal deserves to be dismissed.

7. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find some merit in the submissions advanced on behalf of the appellants.

8. Although it has been contended on behalf of the appellants that deceased was working as a Driver with M/s Nanak Freight Carrier Transport, Babarpur Mandi, Panipat and earning Rs.20,000/- per month, however, admittedly no documentary evidence was adduced by the parties to prove that deceased was employed as a Driver with the said Transport Company. No Appointment Letter, Salary Register, or any other record was adduced to prove the employment of the deceased. Even no Bank Account Statement of the deceased was produced to show that deceased was earning Rs.20,000/- per month. Even no one was examined by the appellants from the said Company to prove the employment of the deceased. Thus, except for the oral and bald statement of claimant No.1/widow to the above effect that deceased was working in the said Company and earning Rs.20,000/- per month, there is no evidence whatsoever on record to prove the said alleged employment or income of the deceased. In this circumstance, in view of total lack of evidence in respect of the alleged employment of the deceased, learned Tribunal has correctly assessed income of the deceased on the basis of relevant



Minimum Wage Notification as prevalent in the State of Haryana at that time as Rs.9320/- per month. I find no error in the same.

9. Further, age of the deceased was determined to be 50 years at the time of accident, on the basis of his Post-Mortem Report (Ex.P5); and also on the basis of his Driving Licence (Ex.P6), wherein his date of birth is mentioned as 02.05.1970. Accordingly, the learned Tribunal has correctly made an addition of 25% towards future prospects. Contention on behalf of the appellant that future prospects ought to have been awarded @ 30%, is without basis. Keeping in view the age of the deceased, multiplier of 13 has been correctly applied.

10. Further, as there were 5 claimants, the learned Tribunal has made a deduction of 1/4th towards personal expenses. Under the conventional heads, learned Tribunal has awarded Rs.15,000/- towards loss of estate; Rs.15,000/- towards funeral expenses; and Rs.40,000/- to claimant No.1/widow towards loss of consortium. Needless to say, as per the law laid down by the Hon’ble Supreme Court, an amount of Rs.40,000/- is liable to be awarded by way of filial and parental consortium to claimants No.2 to 5 as well. In view of the above, present appeal is **partly allowed**; and compensation payable to the claimants is re-assessed in the following manner:-

Head	Awarded by learned Tribunal	Re-assessed compensation
Income	Rs.9320/- per month	Rs.9320/- per month



Future prospects	(25%) Rs.9320/- + Rs.2330/- = Rs.11,650/-	(25%) Rs.9320/- + Rs.2330/- = Rs.11,650/-
Deduction towards personal expenses	(1/4 th) Rs.11,650/- - Rs.2913/- = Rs.8737/- per month	(1/4 th) Rs.11,650/- - Rs.2913/- = Rs.8737/- per month
Multiplier	(13) Rs.8737/- x 12 x 13 = Rs.13,62,972/-	(13) Rs.8737/- x 12 x 13 = Rs.13,62,972/-
Loss of consortium to claimant No.1/widow	Rs.40,000/-	Rs.40,000/-
Loss of consortium to claimants No.2 and 5/mother and minor child	--	Rs.40,000/- x 4 = Rs.1,60,000/-
Loss of estate	Rs.15,000/-	Rs.15,000/-
Funeral expenses	Rs.15,000/-	Rs.15,000/-
Total	Rs.14,32,972/- rounded off to Rs.14,33,000/-	Rs.15,92,9s72/-
Interest	6% p.a.	6% p.a.

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

16.04.2026
Sunena

(Nidhi Gupta)
Judge

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