

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****216****FAO-4771-2015(O&M)****Date of decision: 09.04.2026****Harish Kumar & Others****...Appellant(s)****Vs.****Lilu Ram & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Nischal Chetanya Manchanda, Advocate
Mr. Devyansh, Advocate
Ms. Marvi Singh, Advocate
for the appellants.

Mr. Aalok Verma, Advocate for
Mr. Punit Jain, Advocate
for respondent No.3/Insurance Company.

*********NIDHI GUPTA, J.****CM-2471-CII-2026**

Present application under Section 151 CPC is filed seeking pre-ponement of the present case; and hearing of the same on merits, in the interest of justice.

After going through the contents of the application, which is supported by affidavit of appellant No.1, the same is allowed subject to all just exceptions and main case i.e. FAO-4771-2015 is pre-poned and is taken on board today itself.

CM-14802-CII-2015

This is an application under Section 5 of Limitation Act read with Section 151 CPC for condonation of delay of 172 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 172 days in filing the appeal is condoned.

MAIN CASE

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.34,55,000/- awarded by the Motor Accident Claims Tribunal, Jhajjar (hereinafter 'the learned Tribunal') vide Award dated 29.08.2014 passed in MACP-47-2011 dated 31.05.2011 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). The 3 claimants are 41-year-old husband, 10-year-old daughter, and 8-year-old son of deceased Rekha Rani, who was 36 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 the deceased Rekha Rani had died due to the injuries suffered by her in a motor vehicular accident that took place on 23.02.2011 at about 7 am due to the rash and negligent driving of Truck bearing registration No.HR-14-E-0234 (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 @ 8% 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 not been correctly assessed. It is submitted that the appellants had duly proven on record that the deceased was working as B.Ed. Teacher in Government Girls Senior Secondary School, Village Imlota, Tehsil Charkhi Dadri and was earning Rs.28,369/- per month. Yet the learned Tribunal for inexplicable reasons has taken the income as Rs.18,920/-. It is further submitted that nothing was added by the learned Tribunal towards future prospects. It is contended that deceased being a Government employee, an addition of 50% was liable to be made towards future prospects. Further, amounts under the conventional heads have also not been awarded as per the structured formula enunciated by the Hon'ble Supreme Court. It is accordingly prayed that the present appeal be allowed and compensation be enhanced.

4. Per contra, learned counsel for the respondent No.3 opposes the submissions advanced on behalf of the appellant and submits 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 merit in the submissions advanced on behalf of the appellants.

6. A perusal of record of the case shows that the appellants had duly proved on record that the deceased was working as B.Ed. Teacher (SS



Mistress) and was posted at Government Girls Senior Secondary School, Village Imlota, Tehsil Charkhi Dadri, District Bhiwani. The appellants had also produced Salary Certificate of the deceased (Ex.P48) as per which she was earning Rs.28,369/- per month. The said Salary Certificate was duly proved by PW19 Raj Singh, Elementary School Headmaster. The appellants had also tendered PAN Card and Income Tax Returns of the deceased as Ex.PW46 and Ex.PW47 respectively. Thus, income of the deceased was proved to be Rs.28,369/- per month.

7. The contention of the appellant that learned Tribunal has wrongly taken income of the deceased as Rs.18,920/- per month, is misconceived. Learned Tribunal has taken income of the deceased as Rs.28,369/- only, as per the Salary Certificate produced by the appellants. However, learned Tribunal has then made a deduction of 1/3rd on the same in view of the fact that there are 3 claimants; there by calculating income of the deceased as ₹18,920/- per month. Thus, income of the deceased has been correctly assessed by the learned Tribunal.

8. Further, as there were three claimants, deduction of 1/3rd was correctly made. Age of the deceased was determined to be 36 years at the time of accident, on the basis of pleadings and other record. Given the fact that the deceased was a Government employee, an addition of 50% was liable to be made towards future prospects, which has not been added by the learned Tribunal. Multiplier of 15 has been correctly applied.



9. Under the conventional heads, the learned Tribunal has awarded Rs.25,000/- towards transportation and funeral expenses and Rs.24,400/- towards loss of love and affection. The said amounts are grossly inadequate and not in conformity with the law enunciated by the Hon’ble Supreme Court. Further, as per recent judgment of the Hon’ble Supreme Court in **Hasina Yasmin v. National Insurance Co. Ltd., (SC) ; Law Finder Doc ID # 2826989**, for all accidents that took place prior to 2017, only an amount of Rs.40,000/- each was to be awarded towards consortium and Rs.15,000/- each towards loss of estate and funeral expenses. Thus, present appeal is **allowed**; and compensation payable to the appellants is re-assessed in the following manner: -

Head	Awarded by learned Tribunal	Re-assessed compensation
Income	Rs.28,369/- per month	Rs.28,369/- per month
Deduction	(1/3 rd) Rs.18,920/-	(1/3 rd) Rs.18,912/-
Future prospects	Nil	(50%) Rs.9456/-
Total monthly income	Rs.18,920/-	₹28,368/-
Annual income	Rs.2,27,040/-	₹3,40,416/-
Multiplier	(15) Rs.34,05,600/-	(15) Rs.51,06,240/-
Loss of estate	-	Rs.15,000/-
Funeral expenses	Rs.25,000/-	Rs.15,000/-
Loss of consortium	Rs.24,400/-	Rs.40,000/- x 3 = Rs.1,20,000/-
Total	Rs.34,55,000/-	₹52,56,240/-
Interest	8% p.a.	6% p.a.

10. Before parting, it may also be clarified that on a Court query as to whether the appellants had received any financial benefits from the State of Haryana, learned counsel for the appellant has submitted that in Civil Writ



Petition No.17212 of 2018 filed by the appellant no.1, this Court had granted financial assistance. However, in LPA-2331-2024 titled as “State of Haryana & Others Vs. Harish Kumar”, the said financial assistance granted to the appellants has not been upheld on account of the fact that: -

“28... ..that the benefits under the Compassionate Assistance Rules of 2006, cannot be granted to the respondent-writ petitioners as the same were admissible only to the dependent family members of a deceased government employee of Haryana, who was in regular service.”

11. It may also be pointed out that respondent No.1 has been convicted in FIR No.42 dated 23.02.2011 under Sections 279, 337, 338 and 304-A IPC registered at Police Station Beri, vide judgment dated 22.07.2016 passed by learned Additional Chief Judicial Magistrate, Jhajjar.

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

09.04.2026

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No