

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****215****FAO-4793-2017(O&M)****Date of decision: 23.04.2026****Shanti & Others****...Appellant(s)****Vs.****Mandeep Singh & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Amandeep Singh Mallah, Advocate for
Mr. Harish Mehla, Advocate
for the appellants.

Ms. Komal Bidhan, Advocate
for respondents No.1 and 2.

Mr. Anshul Sharma, Advocate
for respondent No.3.

*********NIDHI GUPTA, J.****CM-14396-CII-2017**

This is an application under Section 151 CPC for condonation of
delay of 1098 days in re-filing the appeal.

The reason for condonation of such inordinate delay in re-filing
the present appeal is mentioned in Para 2 of the application, as under: -

*"2. That delay of 1098 days in refilling of the present appeal has
occurred. That the registry had raised objections in the case filed
and was communicated on several occasions. That while the
case paperbook was returned to the present counsel, due to the
negligence of the office staff of the counsel the paperbook was*



misplaced and it remained untraced for a long time and thus the appeal could not be re-filed within the limitation period.”

The above-said explanation given by the applicants/appellants is utmostly vague, cryptic and does not constitute sufficient cause to condone the inordinate delay of 1098 days in re-filing the appeal. Law of Limitation is for a purpose, and adherence thereto is necessary for complete Justice between the parties. With time, rights of the parties get crystallised and cannot be given to go by without sufficient cause. In the present case, no such sufficient cause is made out.

Reliance is placed upon recent 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**. To condone such an inordinate delay, would be tantamount to declaring the Law of Limitation as redundant; and would also be prejudicial to the rights of the opposite party.

Accordingly, the present application stands **dismissed**.

CM-14397-CII-2017

This is an application under Section 5 of Limitation Act read with Section 151 CPC for condonation of delay of 3 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 3 days in filing the present appeal is condoned.

**MAIN CASE**

Present appeal has been filed by the claimants laying challenge to the Award dated 17.01.2013 passed by Motor Accident Claims Tribunal, Kaithal (hereinafter 'the learned Tribunal') whereby MACT Case No.120 dated 13.10.2010 filed by the appellants under Section 166 of Motor Vehicles Act (hereinafter "the Act"), has been dismissed. The 5 claimants are the widow, 20-year-old son, 15-year-old son, 22-year-old daughter and 18-year-old daughter of deceased Ram Krishan.

2. It was the pleaded case of the appellants before the learned Tribunal that the deceased Ram Kishan had died due to the injuries suffered by him in a motor vehicular accident that took place on 06.04.2009 due to alleged rash and negligent driving of Tractor bearing registration No.HR-08-H-5079 (hereinafter "the offending vehicle") being owned and driven by respondent No.1 and insured by respondent No.3.

3. However, upon appraisal of pleadings and oral & documentary evidence adduced by the parties, the learned Tribunal has dismissed the Claim Petition of the appellants as:-

"17. In view of the discussion made above and for the forgoing reasons, the claimants have been failed to establish on record that Ram Kishan died on account of the injuries sustained by him on a road side vehicular accident which allegedly took place on 6.4.2009 in the area of city, Kaithal on account of rash and



negligent driving of tractor no. HR-08H-5079 by respondent no.1 and resultantly, this issue is decided against the claimants.”

4. It is inter alia submitted by learned counsel for the appellants that the learned Tribunal was in patent error in dismissing the Claim Petition as the learned Tribunal has failed to appreciate the evidence lead by the claimants in support of the Claim Petition. Learned Tribunal overlooked the evidence led by the claimants and hence failed to apply its judicial mind while deciding the fate of the Claim Petition. Learned Tribunal has wrongly circumscribed itself to one judgment of the Hon'ble Apex court which was actually passed in very different facts and circumstances and whose findings can in no way be made applicable to the present case.

5. The deceased Ram Kishan had died in a motor vehicle accident driven by respondent no.1. The learned Tribunal has wrongly relied on judicial pronouncements passed by various Courts and the Hon'ble Apex Court. Every single case involves peculiar facts and circumstances which are to tested in the judicial lab scientifically and test results of one case cannot be mathematically applied to another case, but learned Tribunal has wrongly applied the findings of cases where proposition of facts and circumstances was very different and hence the Award passed by the learned Tribunal is eligible to be set aside.

6. The deceased Ram Kishan is survived by one widow and 3 unmarried children. The family has been left to the tides of fate and at this



time when, the bereaved family is still locating the equilibrium of life, the Court in the times of crises ought to have taken an equitable opinion towards the family.

7. It is accordingly prayed that the present appeal be allowed and an Award of compensation as prayed in the Claim Petition along with appropriate interest thereon may be awarded in favour of the appellants.

8. Ms. Komal Bidhan, Advocate appears on behalf of respondents No.1 & 2; and Mr. Anshul Sharma, Advocate appears on behalf of respondent No.3 and file their respective Power of Attorney, which are taken on record.

9. Learned counsel for the respondents respectively oppose 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.

10. 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.

11. Relevant findings returned by learned Tribunal are as follows:-

"12. The controversy in the present case is that as to whether the death of Ram Kishan deceased was an accidental/ incidental murder or it was a murder simplicitor and according to the testimony of PW1 Pardeep Kumar, his father Ram Kishan expired in an accident caused by respondent no.1 and 2 intentionally to kill his father Ram Kishan with their tractor No. HR-08H-5079 on



6.4.2009 and another witness PW2 Ram Kumar in his affidavit Ex.PW2/A claimed that on the fateful day, respondent no.1 came with his tractor No.HR-08H-5079 fixed with ripper and Gurnam respondent no2 father of respondent no. 1 was on his motorcycle, who asked respondent no.1 to crush Ram Kumar under the tractor and respondent no.1 gave cut to his tractor towards deponent/ PW2 and the deponent PW2 was hit by the side of the tractor and then the tractor hit Ram Kishan by the side of ripper who was injured badly.

XXX XXX XXX

14. Now in view of Smt. Reeta Devi's case(supra), the murder may be a murder simplicitor or accidental or incidental murder in the process of committing some different felonious acts.

When a person riding on a motorcycle was murdered by firing, the claim petition was filed an Hon'ble Patna High Court in judicial pronouncement reported as Ranju rani alias Ranju Devi and other V Branch Manager, New India Assurance Co Ltd. And others 2003 ACJ 1588 while placing reliance on Smt. Reeta Devi's case (supra) concluded that when according to FIR, it was not a case of claimants that accused intended to loot away the motorcycle and in that process, the deceased was murdered and then after it was held that the dominant intention of the accused was to commit the murder and such killing is not an accidental murder and the claim petition was dismissed.

15. In the present case, in view of the testimony of PW1 and PW2 as discussed above, the deceased was murdered while using the tractor in question as a weapon of offence and as such, when the vehicle itself is used as a weapon of offence for committing the murder of the deceased Ram Kishan, certainly, such use of



vehicle does not fall within the expression 'arising out of use of the motor vehicle' as used in section 165 of the Act. As a known fact, the motor vehicle is meant to be used for traveling or transporting or for a particular purpose for which it was adapted or manufactured such as harvester, roller etc. In this scenario, if the vehicle was used as a weapon of offence, such use of vehicle does not fall within the expressions 'arising out of use of motor vehicle', as used in Act."

12. Learned counsel for the appellants is unable to dispute or controvert the aforesaid facts and findings. Ld. Counsel is also unable to distinguish the judgments relied upon by the learned Tribunal while passing the impugned Award.

13. In view of the above, present appeal stands **dismissed**.

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

23.04.2026

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No