



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-5500-2023(O&M)

Date of decision: 05.03.2026

Smt. Guddi Devi & Others

...Appellant(s)

Vs.

Veetu Kumar & Another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Atul Yadav, Advocate
for the appellants.

Mr. Punit Jain, Advocate
for the respondent No.2.

NIDHI GUPTA, J.**CM-18640-CII-2023**

This is an application under Section 5 of Limitation Act for condonation of delay of 257 days in filing the appeal.

The only reason given by the applicant seeking condonation of such inordinate delay is:

"2. That after the decision of the case the Insurance Company has not deposited the amount of compensation awarded by the learned Tribunal. After the death of their son Manoj in the accident the family has ruined and they could not file appeal within limitation due to paucity of funds. The appellants arranged funds while taking loan from a distant relative and are now filing the appeal."



The Law of Limitation is enacted with a purpose, as a handmaid of Justice and cannot be ignored/reduced to an ineffective piece of legislation by giving it the complete go-by. With passage of time, rights of the parties get crystallised. It is the bounden duty of every litigant to pursue his case diligently; and it is also the bounden duty of this Court to ensure that justice inures to both parties concerned.

It is my considered view that keeping in mind the totality of the facts and circumstances of the case, the reasons cited by the applicant for condonation of delay, do not constitute sufficient cause. In view of above, present application is **dismissed**.

MAIN CASE

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.13,20,600/- awarded by the Motor Accident Claims Tribunal, Gurugram (hereinafter 'the learned Tribunal') vide Award dated 16.09.2022 passed in MACP-202 dated 25.03.2019 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). The 5 claimants are the 43-year-old mother, 45-year-old father, 13-year-old sister, 12-year-old brother and 15-year-old brother of deceased Manoj Kumar, who was 17 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 Manoj Kumar had died due to the injuries



suffered by him in a motor vehicular accident that took place on 19.11.2018 due to the rash and negligent driving of motorcycle Hero Splendor bearing registration No.UP-81-BQ-3902 (hereinafter “the offending vehicle”) being driven and owned by respondent No.1 and insured by respondent No.2. The said compensation has been awarded along with interest @ 7% per annum. Respondents were held jointly and severally liable to pay the compensation amount.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that income of the deceased ought to have been taken as Rs.20,000/- per month; whereas the learned Tribunal has assessed income of the deceased as only Rs.8500/- per month. As there were five claimants, deduction of 1/4th ought to have been made. Meagre amount has been awarded by the learned Tribunal under the conventional heads. Interest should be awarded @ 12% per annum. It is accordingly prayed that present appeal be allowed and the compensation be enhanced.

4. Per contra, Id. counsel for the respondent No.2 opposes the submissions made on behalf of the appellants 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 no merit in the submissions advanced on behalf of the appellants.



6. Perusal of record of the case shows that it was the pleaded case of the appellants before the learned Tribunal that prior to the accident, the deceased was doing agricultural work and earning Rs.20,000/- per month. However, the appellants had failed to produce any proof of income of the deceased in the form of Account Statement or Income Tax Return. Accordingly, learned Tribunal had assessed income of the deceased as that of an unskilled labourer as Rs.8500/- per month on the basis of relevant Minimum Wage Notification. I find no error in the same.

7. Further, age of the deceased was determined to be 17 years at the time of accident on the basis of his Post-Mortem Report (Ex.P3). Accordingly, learned Tribunal had made an addition of 40% towards future prospects; and correctly applied multiplier of 18. As deceased was a bachelor at the time of accident, learned Tribunal had correctly made a deduction of 50% towards personal expenses. Contention of the appellants that deduction of 1/4th ought to have been made as there were five claimants, is misplaced. The Hon'ble Supreme Court in case of **"Sarla Verma Vs. Delhi Transport Corporation"** (2009) AIR (SC) 3104 Law Finder Doc ID # 188882, has categorically held that in case of bachelors, deduction of 50% is liable to be made towards personal and living expenses. Moreover, the appellants are the 43-year-old mother and 45-year-old father of the deceased; whereas the claimants No.2 to 5 are the siblings of the deceased who would first be dependent upon their parents rather than their 17-year-old deceased



brother. Therefore, deduction of 50% towards personal and living expenses has been correctly made. The learned Tribunal has correctly not considered the claimant No.2/father of the deceased as dependent upon him. Siblings of the deceased have been correctly considered to be dependent upon claimant No.2.

8. Under the conventional heads, the Tribunal has awarded an amount of Rs.15,000/- towards funeral expenses; Rs.15,000/- towards loss of estate; thereby granting total compensation of Rs.13,15,200/- (incorrectly mentioned as Rs.13,20,600/- in the Award).

9. Contention of the appellants that nothing has been awarded by way of consortium to the appellants is liable to be rejected in view of the following facts:-

To prove that the accident in question had taken place due to the rash and negligent driving of the offending vehicle by respondent No.1, the appellants had examined alleged eyewitness Ombir as PW1, on the basis of whose deposition the learned Tribunal had held that: -

“15.The FIR was lodged by Ombir PW1 giving the details of the occurrence. As far as the mode and manner of the accident is concerned, it has been brought out that when the deceased was going on motor-cycle as pillion rider and reached near main gate of Sector-1, Pataudi then due to fast speed and rash and negligent manner the motor-cycle being driven by respondent no.1 slipped on the road due to which the pillion rider Manoj Kumar (since deceased) suffered grievous injuries on the his



*head and other parts of the body and died. In that case, the rash and negligent driving on the part of motor-cycle rider i.e. respondent no.1 is apparent and is prima facie proof of negligence. Still further, a criminal case has been registered against respondent no.1-driver vide FIR No.468 dated 19.11.2018 Ex.P2 and final report under Section 173 Cr.P.C Ex.P5 has been filed in the Court after due investigation against respondent no.1. The registration of criminal case is also prima facie proof of negligence. It is safe to conclude that accident took place due to rash and negligent driving of respondent no.1. Reliance in this regard can be placed upon **Girdhari Lal Versus Radhey Shyam and Others** 1993(2) PLR (Punjab and Haryana) 109. Therefore, issue no.1 is decided in favour of petitioners and against the respondents.”*

10. Thus, the appellants had proved that the accident in question had transpired due to the rash and negligent driving of the offending vehicle from the evidence of eyewitness PW1 Ombir. While deciding issue No.1, learned Tribunal had taken into account the fact that FIR No.468 dated 19.11.2018 had been registered against respondent No.1 under Sections 279 and 304-A IPC at Police Station Pataudi.

11. However, it is to be seen that vide judgment dated 09.08.2024, the respondent No.1 stands acquitted in the abovesaid FIR No.468 dated 19.11.2018 by the learned Sub-Divisional Judicial Magistrate, Pataudi for the reasons as recorded in Paras 9 and 10 of the said judgment, as under:-

“9. From the perusal of the evidence of the prosecution witnesses on record, the court is of considered view that the



evidence of prosecution is improbable to establish the guilt of the accused for commission of offences punishable under sections 279, 304A of Indian Penal Code.

In the present case, prosecution has examined as many as nine witnesses. PW5 Ombir(complainant) is the most material and star witness of the prosecution but he did not depose anything to connect the accused with the alleged offences. Further PW5 Ombir stated that he cannot identify the accused present in the Court. He had denied having given application Ex. PW2/A before the police and stated that police obtained his signature on the blank papers. He was declared hostile by Ld. APP for the State. Therefore, there is nothing in his statement to connect the accused with the alleged offences.

10. Furthermore, none of the prosecution witnesses has stated that it is the accused facing trial who had caused an accident by riding his motorcycle in a rash and negligent manner, therefore, accused is entitled to benefit of doubt."

12. Resultantly, the respondent No.1 stood acquitted. Whereas before the learned Tribunal, the complainant eyewitness Ombir while appearing as PW1 had deposed to the contrary by submitting that the accident dated 19.11.2018 had been caused due to the rash and negligent driving of the offending vehicle by the respondent No.1. Clearly therefore, the stand of the claimants before the learned Tribunal is contrary to their stand before the learned Criminal Court. Therefore, in actual fact, the claimants are not entitled to compensation.



13. This Court cannot be a deaf-mute spectator to the two contradictory versions given by the claimant side. 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 claimants' side in the criminal trial. Thus, no credence can be attributed to the contrary statements made by the claimants' side before the learned Tribunal. It would appear that the claimant side had deposed falsely before the learned cap tribunal only with the view to get the compensation. In this situation, reference may be made to a judgment of this Court in **“Shri Ram General Insurance Company Limited Vs. Jeeto Devi & Others”** FAO-2231-2014 decided on **03.12.2019**, wherein it is held as under:-

*“(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.”*



14. In view of the above no ground whatsoever is made out for enhancement of the compensation awarded to the appellants. Resultantly, present appeal stands **dismissed**.

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

05.03.2026

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No