

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****113****FAO-3329-2018(O&M)****Date of decision: 18.02.2026****Nita & Others****...Appellant(s)****Vs.****Nanda Ram Gujar & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Kuldeep Sheoran, Advocate
for the appellants.

Mr. V.K. Garg, Advocate
for respondent No.3 (through VC).

*********NIDHI GUPTA, J.****CM-3114-CII-2026**

This is an application under Section 151 CPC to prepone FAO-3329-2018 from 17.12.2026 to early date, in the interest of justice.

After going through the contents of the application, which is supported by affidavit of learned counsel for the appellants, the same is allowed subject to all just exception, and main case i.e. FAO-3329-2018 is preponed and is taken on board today itself.

CM-12170-CII-2018

This is an application under Section 5 of Limitation Act for condonation of delay of 34 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 34 days in filing the present appeal is condoned.

MAIN CASE

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.10,04,052/- awarded by the Motor Accident Claims Tribunal, Hisar (hereinafter 'the learned Tribunal') vide Award dated 01.09.2017 passed in MACT Case No.80 dated 17.02.2016 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). The 4 claimants are the 48-year-old mother, 53-year-old father, 18-year-old sister and 12-year-old brother of deceased Rohit, who was 18 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 Rohit had died due to the injuries suffered by him in a motor vehicular accident that took place on 10.01.2016 due to the rash and negligent driving of Truck bearing registration No.RJ-09-GB-0814 (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 amount.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that while computing the above-said compensation, the learned Tribunal has taken income of the deceased on the lower side. It is submitted that the appellants had proven that the deceased was a student-cum-labourer; and was earning Rs.12,000/- per month. However, the learned Tribunal has taken his income as only Rs.8500/- per month, which is on the lower side. It is submitted that nothing is awarded towards loss of estate and future prospects. Multiplier has also not been correctly applied. An amount of Rs.20,000/- awarded for transportation is on the lower side and is liable to be enhanced. Further, Rs.1 lakh each should have been awarded for loss of love and affection. Interest is also on the lower side as 8% per annum and the same should be 18% per annum. It is further submitted that the claimant No.2/father of the deceased is bed-ridden for the past several years. As such, the claimants No.3 and 4/sister and brother were rightly held to be dependent upon the deceased. It is accordingly prayed that the impugned Award be modified.

4. Per contra, learned counsel for the respondent No.3 opposes 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.



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 a student-cum-labourer and earning Rs.12,000/- per month. However, the appellants have failed to lead any evidence to prove the said avocation or income of the deceased. No evidence has been led by the appellants to prove that the deceased was a student and/or a labourer. No educational or employment record of the deceased was produced by the appellants to prove their said contentions. In this circumstance, in the absence of any evidence, the learned Tribunal has correctly assessed income as that of a casual labourer as Rs.8500/- per month.

7. It has further been contended on behalf of the appellants that appellant/claimant No.2/father of the deceased is bed-ridden for the past several years. However, despite repeated Court queries, the Id. Counsel for the appellants has been unable to give any information in respect of the cause for such confinement of the claimant no.2, or show any medical evidence to substantiate their said contention. It is my view that in this circumstance, the learned Tribunal was in error in making a deduction of 1/3rd towards personal and living expenses of the deceased; whereas keeping



in view the admitted fact that deceased was a bachelor at the time of accident, deduction of 50% ought to have been made.

8. Further, it was the pleaded case of the appellants themselves that at the time of accident, the deceased was 18 years old. However, no evidence was led by the appellants in this regard. The learned Tribunal had accordingly applied multiplier of 13 on the basis of age of the mother of the deceased/claimant No.1. The learned Tribunal had further awarded a sum of Rs.20,000/- towards transportation; Rs.25,000/- to each of the four claimants towards loss of love and affection; thereby granting total compensation of Rs.10,04,052/-.

9. The argument of the appellants in respect of future prospects deserves to be rejected in view of 3-Judge Bench judgment of the Hon'ble Supreme Court in **"Reshma Kumari v. Madan Mohan (SC) 2013(5) Scale 160; Law Finder Doc ID # 421379; Civil Appeal No.4646 and 4647 of 2009 decided on 02.04.2013**, wherein after discussing the judgment in case of **"Sarla Verma Vs. Delhi Transport Corporation" (2009) AIR (SC) 3104 Law Finder Doc ID # 188882** in minute detail, the Apex Court has held that:-

*"F. Motor Vehicles Act, 1988, Sections 166 and 163A - Death of person in motor accident who had a permanent job - What should be the addition to income for future prospects - Method of addition of income towards future prospects as stated in which **Sarla Verma's case (2009(3) RCR (Civil) 77)** approved which is reiterated below :-*



(i) An addition of 50% of actual salary be made to the actual salary income of the deceased towards future prospects where the deceased had a permanent job and was below 40 years and the addition should be only 30% if the age of the deceased was 40 to 50 years and no addition should be made where the age of the deceased is more than 50 years.

(ii) Where annual income is in the taxable range, the actual salary shall mean actual salary less tax.

(iii) Where deceased was self employed or was on a fixed salary without provision for annual increments, the actual income at the time of death without any addition to income for future prospects will be appropriate - A departure from the above principle can only be justified in extraordinary circumstances any very exceptional cases. 2009(3) RCR (Civil) 77, Approved.

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*35. With regard to the addition to income for future prospects, in **Sarla Verma**, this Court has noted earlier decisions in **Susamma Thomas, Sarla Dixit and Abati Bezbaruah** and in paragraph 24 of the Report held as under:*

"24. In view of the imponderables and uncertainties, we are in favour of adopting as a rule of thumb, an addition of 50% of actual salary to the actual salary income of the deceased towards future prospects, where the deceased had a permanent job and was below 40 years. (Where the annual income is in the taxable range, the words "actual salary" should be read as "actual salary less tax"). The addition should be only 30% if the age of the deceased was 40 to 50 years. There should be no addition, where the age of the deceased is more than 50



years. Though the evidence may indicate a different percentage of increase, it is necessary to standardise the addition to avoid different yardsticks being applied or different methods of calculation being adopted. Where the deceased was self-employed or was on a fixed salary (without provision for annual increments, etc.), the courts will usually take only the actual income at the time of death. A departure therefrom should be made only in rare and exceptional cases involving special circumstances."

(Emphasis mine)

10. The Hon'ble Supreme Court in above case of ***“Reshma Kumari supra*** has further held that: *“Motor Vehicles Act, 1988, Section 168 - Section 168 provides that amount of compensation awarded by the Claims Tribunal which appears to it to be just - The expression, 'just' means that the amount so determined is fair, reasonable and equitable by accepted legal standards and not a forensic lottery - Obviously 'just compensation' does not mean 'perfect' or 'absolute' compensation - The just compensation principle requires examination of the particular situation obtaining uniquely in an individual case.”*

11. From the above, it is clear that in the facts and circumstances of the case, a very just and fair compensation has been awarded to the appellants. Nothing whatsoever has been shown to this Court that would merit enhancement of the compensation granted to the appellants. 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 & Another Vs. Jasbir Kaur & Others**' Law Finder Doc ID # 64043 and '**Divisional Controller K.S.R.T.C. Vs. Mahadeva Shetty**', (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 but at the same time it should not be a pittance. 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.

12. In view of the above, present appeal stands **dismissed**.
13. Pending application(s) if any also stand(s) disposed of.

18.02.2026

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No