IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-3527-2018(O&M)
Date of decision: 22.01.2026

Surinder Kumar & Another

...Appellant(s)

Vs.

Satnam Singh (since deceased) through LRs & Others

...Respondent(s)

***

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Akhilesh Vyas, Advocate
for the appellants.

Mr. Punit Jain, Advocate
for respondent No.3.

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NIDHI GUPTA, J.

CM-12382-CII-2018

This is an application under Section 151 CPC for condonation of delay of 290 days in re-filing the appeal.

The only reason cited in the application for not filing the present appeal within limitation is in Para 2, which reads as follows:-

> *"2. That the above mentioned appeal was earlier filed on 03.06.2016, but the case was returned with some objections raised by the registry on same date i.e. 03.06.2016. However, the case filed has got mixed up and same was located on yesterday, because it was mixed with some admitted cases. Hence the delay of 290 days has occurred in re-filing the appeal."*

The said averments of the applicant/appellant are vague and general, and do not constitute sufficient cause for condonation of inordinate and extraordinary delay of 290 days in re-filing the present appeal. Present application accordingly stands **dismissed**.

<u>CM-12383-CII-2018</u>

This is an application under Section 5 of the Limitation Act for condonation of delay of 344 days in filing the appeal.

The only reason cited in the application for not filing the present appeal within limitation is in Para 2, which reads as follows:-

> *"2. That the appellants are poor persons and having no source of income could not manage the requisite expenses to file the appeal within limitation and thus the delay occurred."*

The said averments of the applicant/appellant are vague and general, and do not constitute sufficient cause for condonation of inordinate and extraordinary delay of 344 days in filing the present appeal. Present application accordingly stands **dismissed**.

<u>MAIN CASE</u>

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.5,80,000/- awarded by the Motor Accident Claims Tribunal, Amritsar (hereinafter 'the learned Tribunal') vide Award dated 03.11.2015 passed in MAC Case No.155 dated 20.05.2014 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). The two claimants are the 45-year-old husband and 18-year-old son of deceased Sheetal Sharma, who was 40 years old at the time of accident.

2. Brief facts of the case are that the ld. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that deceased Sheetal Sharma had died due to the injuries suffered by her in a motor vehicular accident that took place on 29.10.2013 due to the rash and negligent driving of Truck bearing registration No.PB-03Y-5644 (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 @ 7.5% 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 income of the deceased has been assessed on the lower side. Nothing has been granted by way of future prospects. Multiplier of 17 should have been applied instead of 15. Loss of consortium is liable to be enhanced to Rs.1,00,000/-. Funeral expenses should be Rs.1,50,000/-; and loss of love and affection should be Rs.2,00,000/-. It is accordingly prayed that the present appeal be allowed and 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 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. It was the pleaded case of the appellants before the learned Tribunal that prior to the accident, the deceased was running a Boutique and earning Rs.20,000/- per month. However, the appellants miserably failed to lead any evidence in this regard. In these circumstances, learned Tribunal had correctly assessed notional income of the deceased as Rs.3,000/- per month towards the gratuitous services rendered by the deceased. In determining income of the deceased, learned Tribunal had relied upon judgment in **Rahul Gupta & Others Vs. Oriental Insurance Co. Ltd. & Ors. 1 (2008) ACC 19.** Keeping in view the fact that the accident is of the year 2013, I find no error in the assessment of contribution of the deceased in the household work. Thus, annual income was calculated to be Rs.36,000/- (Rs.3000x12).

7. Further, age of the deceased was determined to be 40 years on the basis of her Post-Mortem Report (Ex.P1). Accordingly, Tribunal had correctly applied multiplier of 15; thereby calculating compensation to be Rs.36,000 x 15 = Rs.5,40,000/-. Learned Tribunal has further awarded consortium of Rs.10,000/- to claimant No.1/husband; Rs.25,000/- towards funeral expenses; and Rs.5,000/- towards loss of estate; thereby awarding total compensation of Rs.5,80,000/-.

8. 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.

9. In view of the above, present appeal stands **dismissed** on grounds of delay as well as on merits.

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

22.01.2026 **(Nidhi Gupta)**
Sunena **Judge**

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