

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****225****FAO-6947-2017(O&M)****Date of decision: 29.01.2026****Sukhdev Singh****...Appellant(s)****Vs.****Sarabjit Singh & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Gagandeep Tiwari, Advocate
for the appellant.

Mr. Gaurav, Advocate for
Mr. Rajbir Singh, Advocate
for respondent No.3.

*********NIDHI GUPTA, J.****CM-22502-CII-2017**

This is an application under Section 5 of Limitation Act r/w
Section 151 CPC for condonation of delay of 60 days in re-filing the appeal.

Contradictory averments have been made in the application
inasmuch as in the head note of the application, it is stated that there is
delay of 60 days in re-filing the appeal. Whereas, in Para 2 and 4 of the
application, it is stated that there is a delay of 50 days in re-filing the
appeal.



After going through the contents of the application, the same is allowed subject to all just exceptions and delay of 60/50 days in filing the present appeal is condoned.

MAIN CASE

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.6,19,380/- awarded by the Motor Accident Claims Tribunal, Gurdaspur (hereinafter 'the learned Tribunal') vide Award dated 06.04.2016 passed in MACT Case No.10 dated 20.03.2015 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). The 2 claimants are the widow and major son of deceased Harbans Singh, who was 70 years old at the time of accident. Present appeal has been filed by claimant No.2/51-year-old son of deceased Harbans Singh.

2. Mr. Gagandeep Tiwari, Advocate appears on behalf of the appellant and files Power of Attorney, which is taken on record. Ld. counsel also files Written Arguments dated 29.01.2026, which are taken on record.

3. 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 Harbans Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 15.02.2015 at about 10 am due to the rash and negligent driving of Car



bearing registration No.CH-03-Q-0078 (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 @ 6% per annum. Respondents were held jointly and severally liable for payment of compensation amount.

4. Learned counsel for the appellants seeks enhancement of compensation by submitting that the deceased was 70 years of age at the time of his death. He retired as Manager from the Bank and was a Transporter. The deceased was getting a sum of Rs. 17,000/- as pension and also earning Rs. 50,000/- per month from the business of transport and by doing agriculture pursuits. The deceased was an energetic man and was doing his transport business and also engaged in tilling his lands. Due to the death of deceased in the accident the mother of the appellant lost her life partner while the appellant has lost love and affection and guidance of his father. As such a claim was lodged for grant of a sum of Rs75,00,000/-.

5. It is submitted that the claimant Joginder Kaur herself stepped into the witness box as CW-2 besides examining CW-1 Prabhdial Singh who was an eyewitness of the accident and other witnesses i.e. CW-3 Barinder Mohan Scale One Officer PSB Cinema Road Batala. CW-2 Joginder Kaur while appearing in the witness box has tendered into evidence her duly sworn affidavit and mentioned all the facts regarding accident and death



of deceased; and CW-1 Prabhdyal Singh, eyewitness fully supported the version of CW-1. These witnesses were cross examined at length by the counsel for respondents but he failed to bring out any such circumstances from their cross examination from which it could be inferred that they have deposed falsely or that the accident has not taken place in the manner stated by them. There was nothing on the file that the CWs had any reason to falsely implicate him in this case.

6. It is contended that the Ld. Tribunal has erred in arriving at the amount of consortium love and affection which has been quantified at Rs.1,00,000/- which is not sustainable in view of the peculiar facts and circumstances of the case. It is submitted that the mother of the appellant has lost her husband at the ripe age when she needs the support of her husband who was hale and hearty even at the age of 70 years. But for the accident the deceased would have lived at least for 15 years more and thereby earning sufficient money from his transport business and agricultural lands. This aspect of the matter has escaped notice of the Ld. Tribunal and only a meagre amount of Rs1,00,000/- has been awarded in a post haste without appreciating the evidence and facts of this case.

7. Thus, the amount so awarded at Rs. 6,19,380/- is too small and the amount of interest earned on this amount will not be enough to meet the day-to-day expenses of the widow who is also a bedridden on account of old age diseases. Further, the Ld. Tribunal has erred by allowing



interest of 6% p.a. on the compensation amount which is not commensurate with the present-day scenario and deserves to be suitably enhanced. As such on account of this reason also the award dated 06.04.2016 is liable to be modified accordingly so that the living heirs are duly compensated for the death of their head of family.

8. Per contra, learned counsel for the respondent No.3/Insurance Company opposes the submissions advanced on behalf of the appellant and submit that the impugned Award suffers from no error; and the present appeal deserves to be dismissed.

9. 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 appellant.

10. Perusal of record of the case shows that it was the pleaded case of the claimants that prior to the accident, the deceased had retired as Manager from Bank and was a Transporter. It was pleaded that deceased was getting pension of Rs.17,000/- per month and was also earning Rs.50,000/- per month from the business of transportation and agriculture. To prove their case, the claimants had examined CW3 Barinder Mohan, Scale-I Officer, Batala, who had brought the pension record of the deceased. As per the Pension Slip (Ex.C1), the deceased was drawing monthly pension of Rs.18,934/-. The claimant No.1 had stepped into the witness box as CW3 and had admitted that she is receiving Family Pension



of Rs.7199/- per month. As such, the learned Tribunal had calculated income of the deceased as Rs.7823/-, after making deduction of 1/3rd towards personal and living expenses. Thus, Annual income of the deceased came to Rs.7823/- x 12 = Rs.93,876/-. Age of the deceased was determined to be 70 years at the time of death on the basis of Post-Mortem Report (Ex.C6). As deceased was more than 60 years old, no future prospects were required to be added. Further, the learned Tribunal had correctly applied multiplier of 5. Thus, compensation was calculated to be Rs.93,876/- x 5 = Rs.4,69,380/-. In addition, thereto, under the conventional heads, the Tribunal has granted exorbitant amount of Rs.1 lakh towards loss of consortium; Rs.25,000/- towards love and affection; and Rs.25,000/- towards funeral expenses; thereby granting total compensation of Rs.6,19,380/-.

11. It is view of this Court that the appellant/claimant No.2 being 51-year-old son of the deceased was not entitled to compensation. The claimant/appellant led no evidence to show that he was financially dependent upon the deceased. As such, in actual fact, deduction of 50% was required to be made towards personal expenses. Appellant being LR of the deceased was only entitled to consortium. Further, as per law (Ref.: **Hasina Yasmin v. National Insurance Co. Ltd., (SC) ; law Finder Doc ID # 2826989**), 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 i.e. total amount of Rs.1,10,000/-; whereas the learned Tribunal has awarded Rs.1,50,000/- under the conventional heads. It is therefore clear that compensation in excess of what is admissible to the claimants, as per law has already been awarded to them.

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

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

29.01.2026

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No