

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****117****FAO-24-2023(O&M)****Date of decision: 21.01.2026****Rajwati & Another****...Appellant(s)****Vs.****Rakesh Kumar & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Arvind Kumar Yadav, Advocate
for the appellants.

*********NIDHI GUPTA, J.****CM-65-CII-2023**

This is an application under Section 5 of Limitation Act for condonation of delay of 163 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 delay in filing in appeal is occurred due to the fact that the appellant was not aware about the Law of Limitation and she was under the impression that delay should be stated after receiving the award"

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 163 days in filing the present appeal. Present application accordingly stands **dismissed**.

MAIN CASE

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.13,40,200/- awarded by the Motor Accident Claims Tribunal, Rewari (hereinafter 'the learned Tribunal') vide Award dated 15.02.2022 passed in MACP Case No.339 dated 27.05.2019 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). The two claimants are the 42-year-old mother and 19-year-old sister of deceased Rahul, who was 23 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 Rahul had died due to the injuries suffered by him in a motor vehicular accident that took place on 10.12.2018 due to the rash and negligent driving of Car bearing registration No.HR-36X-1997 (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 as only Rs.8,500/- per month. It is submitted that the appellants had duly proved on record that deceased was a Graduate and was working in a Private Company and getting salary of Rs.18,000/- per month. Yet the learned Tribunal has taken income of the deceased as that of a daily wager.

4. It is further submitted that nothing has been granted towards filial consortium to claimant No.2/sister of the deceased. Nothing has been granted towards loss of estate. Learned Tribunal ought to have awarded Rs.50,000/- towards funeral expenses. Interest should be granted @ 18% per annum. It is accordingly prayed that the Award be modified and compensation of Rs.50 lakh be awarded to the appellants.

5. No other argument is made on behalf of the appellants. 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 working in Mussasi Company. However, claimant No.1 while appearing as PW2 in her Affidavit of Evidence (Ex.PW2/A) has admitted that deceased was working in the said Company only since 7 to 8 months prior to the accident. The claimants had further asserted that deceased was earning Rs.17-18 thousand per month. However, no documentary proof of income was produced by them. Even no employer or any other colleague of the deceased was examined to prove



the alleged employment or income of the deceased. The claimants had further contended that deceased was 12th pass and ITI diploma holder. However, no evidence to this effect was produced by them. It was in this background that the Tribunal had assessed income of the deceased as Rs.8,500/- per month on the basis of Minimum Wage Notification issued by the Haryana Government for the year 2018. I find no error in the same.

7. Age of the deceased was proved to be 23 years at the time of accident on the basis of his Post-Mortem Report. Accordingly, the learned Tribunal has correctly made an addition of 40% towards future prospects; and applied multiplier of 18. As deceased was Bachelor, deduction of 50% has been correctly made. Under the conventional heads, the learned Tribunal has awarded Rs.40,000/- by way of parental consortium to the claimant No.1/mother; and Rs.15,000/- towards funeral expenses; thereby granting total compensation of Rs.13,40,200/-.

8. It has been contended on behalf of the appellants that nothing has been awarded by way of filial consortium. However, I find no merit in the said argument as 30% of the aforesaid compensation has been granted to the claimant No.2/sister.

9. The 3-Judge Bench 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,** 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."

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

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

21.01.2026

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No