

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****232****FAO-15840-2018(O&M)****Date of decision: 12.03.2026****Gurpreet Kaur & Others****...Appellant(s)****Vs.****Om Pal & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Manvi Singla, Advocate
for the appellants.

Ms. Harmanpreet Kaur, Advocate
for the respondent No.1.

Mr. Amit Jaiswal, Advocate
for respondent No.3.

*********NIDHI GUPTA, J.****CM-28364-CII-2018**

This is an application under Section 5 of Limitation Act for
condonation of delay of 49 days in filing the appeal.

After going through the contents of the application, which is
supported by affidavit of appellant No.1, the same is allowed subject to all
just exceptions and delay of 49 days in filing the present appeal is condoned.

MAIN CASE

Present appeal has been filed by the claimants seeking
enhancement of compensation of Rs.18,55,600/- awarded by the Motor



Accident Claims Tribunal, Ludhiana (hereinafter 'the learned Tribunal') vide Award dated 15.05.2018 passed in MACP Case No.198 of 2016 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). The 3 claimants are the 33-year-old widow, 15-year-old daughter and 13-year-old son of deceased Tarlochan Singh, who was 34 years old at 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 Tarlochan Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 23.11.2015 due to the rash and negligent driving of Tanker bearing registration No.HR-37B-3477 (hereinafter "the offending vehicle") being driven by respondent No.1, owned by respondent No.2, who are jointly and severally liable to pay compensation along with interest @ 7.5%.

3. Ld. counsel for the appellants seeks enhancement of compensation by submitting that income of the deceased has been taken on the lower side as only Rs.10,000/- per month. It is submitted that the appellants had duly proved on record that the deceased was working as a Property Advisor and was also selling milk, from all of which, he was earning Rs.25,000/- per month. To prove the income, the appellants had also produced Income Tax Returns of the deceased as Ex.P4 and Ex.P5. It is accordingly submitted that income of the deceased ought to have been taken as Rs.25,000/- per month. Learned counsel further submits that



nothing has been awarded by way of consortium to the claimants No.2 and 3/minor children of the deceased. It is accordingly prayed that the present appeal be allowed and impugned compensation be modified as above.

4. Per contra, Ld. counsel for respondents No.1 and 3 oppose submissions made on behalf of the appellants and submit that the impugned Award suffers from no error; and present appeal be dismissed.

5. Learned counsel for respondent No.3 further points out that the Insurance Company has been granted recovery rights against respondents No.1 and 2 as the offending vehicle did not possess valid Route Permit.

6. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find some merit in the submissions advanced on behalf of the appellants.

7. It has firstly been contended by learned counsel for the appellants that income of the deceased has not been properly assessed as the appellants had proved that deceased was working as a Property Advisor and was also doing work of selling milk from which he was earning Rs.25,000/- per month. To prove the same, the appellants had duly produced Income Tax Returns (Ex.P4 and Ex.P5). However, it is undisputed that the said Income Tax Returns are only the 'photocopies' of the Income Tax Returns. Primarily, photocopies of the Income Tax Returns are not reliable evidence. Admittedly even no official from the Income Tax Department has been examined to prove the said returns. Moreover, the said Returns pertain to



the years 2009-10 and 2010-11; whereas the accident had taken place on 23.11.2015. The appellants were required to produce the Income Tax Returns for the three years preceding the accident. As per the said Returns, income of the deceased has been shown to be Rs.1,20,000/- and Rs.1,33,000/- respectively. Accordingly, the learned Tribunal had assessed income of the deceased as Rs.10,000/- per month. I find no error in the same.

8. Further, age of the deceased was determined to be 34 years on the basis of Post-Mortem Report (Ex.p1). Accordingly 40% future prospects have been added; and multiplier of 16 has been correctly applied. As there were three claimants, deduction of $\frac{1}{3}^{\text{rd}}$ was correctly made. Under the conventional heads, the learned Tribunal has awarded Rs.40,000/- to claimant No.1 towards loss of consortium; Rs.15,000/- towards loss of estate; and Rs.15,000/- towards funeral expenses; thereby granting total compensation of Rs.18,55,600/-. There is no doubt that as per the structured formula laid down by the Hon'ble Supreme Court, claimants No.2 and 3 are also entitled to Rs.40,000/- each by way of consortium.

9. Before parting, it may be pointed out that the respondent No.2/owner of the offending vehicle remains unserved due to incomplete address. However, as correctly pointed out by learned counsel for the respondent No.3, the compensation is being enhanced as per law and as per the structured formula laid down by the Hon'ble Supreme Court. Accordingly, the compensation payable to the appellants is re-assessed as under: -



Head	Awarded by learned Tribunal	Re-assessed compensation
Income	Rs.10,000/- per month	Rs.10,000/- per month
40% addition towards future prospects	Rs.10,000/- + Rs.4,000/- = Rs.14,000/-	Rs.10,000/- + Rs.4,000/- = Rs.14,000/-
1/3 rd deduction	Rs.14,000/- - Rs.4666/- = Rs.9334/-	Rs.14,000/- - Rs.4666/- = Rs.9334/-
Total dependency	Rs.9300/- x 12 x 16 = Rs.17,85,600/-	Rs.9300/- x 12 x 16 = Rs.17,85,600/-
Loss of consortium to claimant No.1	Rs.40,000/-	Rs.40,000/-
Loss of consortium to claimants No.2 and 3	Nil	Rs.40,000/- x 2 = Rs.80,000/-
Loss of estate	Rs.15,000/-	Rs.15,000/-
Funeral expenses	Rs.15,000/-	Rs.15,000/-
Interest	7.5% p.a.	7.5% p.a.
Total	Rs.18,55,600/-	Rs.19,35,600/-

10. In view of the above, present appeal stands **partly allowed**.

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

12.03.2026

Sunena

(Nidhi Gupta)
Judge

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