IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

116

FAO-1817-2024(O&M)
Date of decision: 19.03.2026

Joga Singh & Others

...Appellant(s)

Vs.

Harjeet Singh @ Hardeep Singh & Others

...Respondent(s)

***

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Tarun Sharma, Advocate
for the appellants.

***

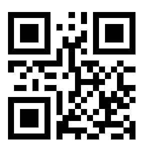
NIDHI GUPTA, J.

CM-6935-CII-2024

This is an application under Section 5 of Limitation Act for condonation of delay of 115 days in filing the appeal.

The reason given in the application seeking condonation of delay of 115 days is contained in Para 1 of the application, which is as under:-

"1. That the appellants are filing the accompanying appeal for enhancement of the impugned award dated 12.07.2023 in this Hon'ble Court and same is likely to succeed on the grounds taken therein but the appeal before this Hon'ble High Court could have not been filed within the period of limitation as the appellants are poor persons and does not know the technicalities of law and after deciding the above claim petition, the appellants could not contacted the counsel before Ld. Trial Court. The Trial Court counsel many times tried to contact the appellants but their mobile numbers were found switch off at that time. That the



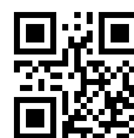
2026:PHHC:043949

appellant No.1 being senior citizen and not keeping good health and only the bread winner of his family. That in the month of January 2024 last week, appellant No. 1 visited the District Court for some purpose and met his counsel and then counsel told him that their claim case is decided on 12.07.2023. Then the appellant No. 1 asked from the Trial Court Counsel that now what is the next procedure and then the Ld. Trial Court counsel has advised him to file an appeal against the impugned award dated 12.07.2023 and then after arranging the necessary documents etc. the appellants contacted the undersigned counsel to file the appeal pro-bono and hence in this way the delay of 115 days has occurred in filing the present appeal which is neither intentional nor willful rather the same has occurred due to the bonafide reasons mentioned above."

The above cited reason is does not constitute sufficient cause to condone extraordinary delay of 115 days in filing the present appeal. It is cardinal principle of law that delay of each day has to be explained. In this regard, reliance may also be placed upon recent judgment of Hon'ble Supreme Court in **"Shivamma (Dead) by LRs Vs. Karnataka Housing Board & Others" Civil Appeal No.11794 of 2025 decided on 12.09.2025.** As such, no ground is made out for condoning inordinate delay of 115 days. Present application accordingly stands **dismissed**.

MAIN CASE

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.3,61,000/- awarded by the Motor

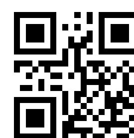


2026:PHHC:043949

Accident Claims Tribunal, Ferozepur (hereinafter 'the learned Tribunal') vide Award dated 12.07.2023 passed in MACP/24 dated 07.07.2021 filed under Sections 166 and 140 of the Motor Vehicles Act (hereinafter "the Act"). The 3 claimants are the 64-year-old husband, 22-year-old son, and 24-year-old daughter of deceased Sant Kaur, who was 62 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 the deceased Sant Kaur had died due to the injuries suffered by her in a motor vehicular accident that took place on 07.05.2020 due to the rash and negligent driving of Car bearing registration No.PB-02-CH(T)-3170 (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% per annum. Respondent No.3 was held liable for payment of compensation.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that income of the deceased has been wrongly assessed as only Rs.3500/- per month. It is submitted that the deceased was working as Helper in Anganwari and earning Rs.6,000/- per month; and she was also doing other domestic works like stitching, agricultural work etc. Thus, income of the deceased has been wrongly assessed. It is further submitted that the amounts granted under the conventional heads are also liable to be



2026:PHHC:043949

enhanced. Interest should have been awarded @ 18% per annum. It is accordingly prayed that the present appeal be allowed and impugned Award be modified as above.

4. 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.

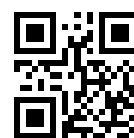
5. Record reveals that it was the pleaded case of the appellants before the learned Tribunal that deceased was 55 years old at the time of accident. However, no concrete evidence was produced by the appellants to prove their said assertion. Accordingly, the learned Tribunal had determined age of the deceased to be 62 years old at the time of accident on the basis of Post-Mortem Report (Ex.C2). Further, contrary to the statements of the appellants in respect of the income of the deceased, no evidence in this regard was led by the appellants. Nonetheless, Tribunal had accepted the contention of the appellants that deceased was working in a Government organisation as a volunteer and was having monthly salary of Rs.3500/- per month. I find no error in the same.

6. As deceased was between 61 to 65 years old, no future prospects were liable to be added. Multiplier of 7 has been correctly applied. As there were 3 claimants, learned Tribunal has made deduction of 1/3rd towards personal expenses. Under the conventional heads, the learned Tribunal has awarded an amount of Rs.16,500/- towards loss of estate;

Rs.16,500/- towards funeral expenses; and Rs.44,000/- to each of the three claimants towards loss of consortium; thereby granting total compensation of Rs.3,61,000/-. Thus, the above said compensation awarded to the appellants is as per the structured formula laid down by the Supreme Court. There is therefore, no scope for enhancement.

7. In fact, even otherwise, appellants were not entitled to compensation for the reasons given here in below. It has come on record that in respect of the accident in question, the claimant No.1 Joga Singh/husband of the deceased, who was also stated to be the eyewitness of the accident in question, had appeared as CW1 before the learned Tribunal and had deposed that the respondent No.1 had banged the offending car from behind in the motorcycle of the deponent thereby causing death of the deceased and injuries to the deponent. Therefore, it is the clear testimony of the claimant No.1 before the learned Tribunal that the accident in question had been caused due to rash and negligent driving of the offending car by the respondent No.1.

8. Being eyewitness, Joga Singh had made statement before the police on the basis of which FIR No.33 dated 07.05.2020 was registered under Sections 304-A, 427, 279, 337, 338 and 427 IPC at Police Station Sadar Zira against respondent no.1 in respect of the accident in question. It is to be noted that in the said FIR, the respondent No.1 has been acquitted by the learned Judicial Magistrate, 1st Class, Zira vide judgment dated 06.02.2024, in

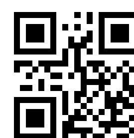


2026:PHHC:043949

view of the fact that the complainant Joga Singh/claimant No.1 had not supported the case of the prosecution. The categoric finding of the learned Magistrate is as follows:-

> *"13. The complainant Joga Singh PW-3 has not supported the case of the prosecution and has failed to identify the accused present in the court. There is no other evidence from the side of prosecution so as to prove the presence of accused at the scene of occurrence. No case against the accused is made out in these circumstances."*

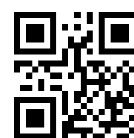
9. A bare reading of the above facts shows that the claimant side has turned turtle on its previous statement. It is to be appreciated that the present claim petition was filed by the claimants with the positive averments that the accident in question had been caused due to the rash and negligent driving of the offending vehicle by respondent no.1. However, in the criminal trial against respondent no.1/Driver, the complainant, Joga Singh, had taken a diametrically opposite stand. Thus, respondent no.1 could not be connected with the accident in question and was accordingly acquitted. This Court cannot be a deaf-mute spectator to the two contradictory versions given by the claimant side. No doubt, proceedings under the Act have to be decided on the preponderance of probabilities. However, this Court cannot shut its eyes in an ostrich like manner, to the starkly diametrically opposite stance taken by the claimants' side in the criminal trial. Thus, no credence can be attributed to the subsequent statements made by the claimant



2026:PHHC:043949

side before the learned Tribunal. Therefore, it cannot be said that the accident in question was caused due to the rash and negligent driving of the offending vehicle by respondent No.1; as the same would be contrary to the own statements made by the claimant side before the learned JMIC. It would therefore appear that the claimant had deposed falsely before the Tribunal only to get the compensation. In such a situation, reference may be made to a judgment of this Court in **"United India Insurance Company Limited Vs. Kamla Devi & Others" (P&H) : Law Finder Doc Id # 251230** wherein it has been held that:

> *"5. It should still have been possible for the Tribunal to take a decision uninfluenced by any decision that may have come before the criminal court. The several decisions which have come about on this issue are to the effect that a judgment in a criminal court is not binding on the Tribunal; the non-filing of a FIR is not material; even the fact of involvement of the vehicle as found by the criminal court is not binding. While the Tribunal is competent to assess the evidence which is brought before it and take an independent decision, then the point that has to be seen is whether there was any evidence worth its name before the Tribunal to come a finding that the particular vehicle was involved in the accident. It can be either that the version of Sitar Mohd. cannot be relied for he has contradicted himself wholesale with the version given before the criminal court or looked for other evidence which was placed before the Court. Alternatively if any explanation had been given by the witness as to why he deposed falsehood before the criminal court, even such an explanation could have been accepted to enter a finding that the accident*



2026:PHHC:043949

took place only involving the particular insured's vehicle. In this case, no explanation has been given by the witness as to why he stated before the criminal court that he did not know which vehicle was involved in the accident. He would, on the other hand, defy that he ever made any such statement before the criminal court, necessitating the statement made before the criminal court to be exhibited for contradiction before the Tribunal. It must be remembered a statement in criminal court case by a witness is also on oath. If he was uttering falsehood, he was liable for perjury. If there was contradiction between the version elicited before the Tribunal to the statement made before the criminal court then such a witness will be unworthy of acceptance. The Tribunal could have simply rejected the whole evidence. If it was going to pick out one line from chief examination to say that the insured's vehicle was involved in the accident, the Tribunal was doing something which is not a judicial function but a travesty of justice."”

10. The above said view has been reiterated by this Court in **“Shri Ram General Insurance Company Limited Vs. Jeeto Devi & Others” FAO-2231-2014 decided on 03.12.2019,** wherein it is held as under:-

“(6) This Court cannot loose sight of the judgment rendered by this Court in the case of ***United India Insurance Company Limited versus Kamla Devi and others,*** *wherein it was specifically held that in case an eye witness gives totally different version before the Court conducting trial in criminal case from the statement made by the said eye witness before the Tribunal, the testimony of such a witness is unworthy of being accepted and the evidence should be simply*

rejected. In fact, the learned Single Bench came down heavily on such witness and held that the said witness is also liable for perjury."

11. Learned counsel for the appellants is unable to dispute or controvert the aforesaid facts and findings. Thus, no ground whatsoever is made out for enhancement of compensation.

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

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

19.03.2026 **(Nidhi Gupta)**
Sunena **Judge**

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