

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

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FAO-3746-2024(O&M)**Date of decision: 05.03.2026****Pinki Rani****...Appellant(s)****Vs.****Mithlesh Kumar & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

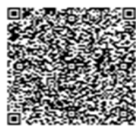
Present:- Mr. Vivek Goyal, Advocate
for the appellant.

*********NIDHI GUPTA, J.****CM-13683-CII-2024**

This is an application under Section 5 of Limitation Act r/w
Section 151 CPC for condonation of delay of 402 days in filing the appeal.

The reason given in the application seeking condonation of
delay of 402 days is contained in Para 2 of the application, which is as under:-

*"2. That the delay of 402 days in filing of the appeal has been
occurred though the appellant approached the counsel to file
the appeal within time however, the counsel demanded some
papers including evidence and other from the lower court
counsel and thereafter the papers were kept and by mistake
neither the counsel in the court below was again called by
undersigned nor he provided the papers on his own however
when in the month of July appellant approached the counsel to
know about the status thereafter the brief was searched and
thereafter without any further delay the case is being filed hence*



there is a delay of 402 days in filing the appeal which is neither or deliberate but is because of the reasons mentioned above in which the appellant has no fault. Hence the appellants craves the kind indulgence of this Hon'ble Court to condone the delay of 402 in filing of appeal otherwise the appellant will suffer irreparable loss and injury."

The above cited reason is vague and does not constitute sufficient cause to condone extraordinary delay of 402 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 402 days. Present application accordingly stands **dismissed**.

MAIN CASE

Present appeal has been filed by the claimant seeking enhancement of compensation of Rs.39,32,600/- awarded by the Motor Accident Claims Tribunal, Kaithal (hereinafter 'the learned Tribunal') vide Award dated 20.03.2023 passed in Case No.85 dated 22.01.2020 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). The appellant is the widow of deceased Rajesh, who was 29 years old at the time of accident. Connected Claim Petition No.148 dated 22.01.2020 had been filed by the 28-year-old sister and 25-year-old brother of deceased



Rajesh. Both the above-said Claim Petitions were disposed of by the learned Tribunal vide common Award dated 20.03.2023. Compensation amount of Rs.39,32,600/- was directed to be apportioned between the claimants as follows; appellant Pinki 80%; 10% to claimant/28-year-old sister Seema Devi; and 10% to 25-year-old brother Mukesh.

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 Rajesh had died due to the injuries suffered by him in a motor vehicular accident that took place on 17.01.2016 due to the rash and negligent driving of Truck bearing registration No.PB-23J-4791 (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. Respondents were held jointly and severally liable to pay the compensation.

3. Learned counsel for the appellant seeks enhancement of compensation by submitting that the appellants had duly proved on record that the deceased was working with a Multinational company in Portugal. The appellant had duly placed on record the Salary Slips of the deceased to prove that deceased was earning Rs.2 lakh per month. Yet the Tribunal has assessed income of the deceased on the lower side as only Rs.18,000/- per month. It is further submitted that learned Tribunal has erred in holding the sister and brother of the deceased/claimants in connected Claim Petition



No.148 dated 22.01.2020 to be entitled to compensation to the extent of 10% each. It is submitted that the court below at the time of passing order, wrongly distributed the claim and illegally and arbitrarily came to the conclusion that the sister of the deceased and brother of the deceased were entitled to the compensation whereas infact no married or unmarried brother and sister are entitled for compensation as they do not fall in the category of legal representative. It is contended that only wife, children and mother are entitled for the compensation of the deceased. Hence the award passed by the court below with regard to giving 10% compensation to Seema Devi, his sister and 10% to Mukesh Kumar, his brother is also liable to be modified and the entire compensation should have been given to the widow appellant Pinki.

4. It is accordingly prayed that the present appeal be allowed.

5. No other argument is made on behalf of the appellant. 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.

6. Perusal of record of the case shows that it was the pleaded case of the appellant before the learned Tribunal that prior to the accident, the deceased was working in a Multinational Company in Portugal and earning Rs.2 lakh per month. To prove her claim, the appellant had produced Salary Slips of the deceased as Ex.P8 to Ex.P-47 and translations thereof as Ex.P8/T to Ex.P47/T. However, it is to be seen that translations of the said salary slips



had been done by PW3 Shamsher Singh who has admitted in his cross-examination that he was not well-versed with Portuguese language; that he did not have any personal knowledge of the said Pay Slips; and that he had done the translations of the said Salary Slips by using Google Translator. Moreover, documents (Ex.P1 to Ex.P48) were not even attested by the Indian Embassy as per the Diplomatic and Consular Offices Oath and Fees Act, 1948.

7. Furthermore, mere production of the said Salary Slips was not sufficient to prove the alleged employment and income of the deceased. The appellant had failed to produce any other reliable documentary evidence such as appointment letter or bank account statement of the deceased to prove the alleged employment of the deceased. The appellant had even failed to mention any details of the firm where the deceased was alleged to be employed. Moreover, the appellant while appearing as PW1 had admitted in her oral evidence that deceased was an Income Tax Payee. However, Income Tax Return of the deceased was not produced on record to prove the said income of the deceased. In this regard, it is also to be taken note of that the brother and sister of the deceased/claimants in connected Claim Petition No.148 dated 22.01.2020 had asserted that the deceased was working as an agriculturist and earning Rs.1 lakh per month. Thus, a totally contrary averment was made by the other claimants. In these circumstances, the learned Tribunal had assessed income of the deceased as Rs.18,000/- per month. I find no error in the same.



8. Further, age of the deceased was determined to be 29 years at the time of accident, on the basis of his Passport wherein his date of birth is mentioned as 20.08.1987. Accordingly, the learned Tribunal had made an addition of 40% towards future prospects; and correctly applied multiplier of 17. Further, the Tribunal has made a deduction of 1/4th towards personal expenses, even though there is no evidence on record to show that sister and brother of the deceased being 28 and 25 years respectively were dependent upon him. Under the conventional heads, the learned Tribunal has awarded an amount of Rs.16,500/- towards loss of estate; Rs.44,000/- towards consortium; and Rs.16,500/- towards funeral expenses; thereby granting total compensation in the following manner:-

Head	amount
Annual income	Rs.18,000/- x 12 = Rs.2,16,000/-
Future prospects @ 40%	Rs.86,400/-
Total income	Rs.3,02,400/-
Deduction	1/4 th of Rs.3,02,400/- = Rs.75,600/-
Net assessable income	Rs.2,26,800/- per annum
Multiplier	17
Loss of income	Rs.2,26,800/- x 17 = Rs.38,55,600/-
Conventional heads	Rs.77,000/-
Total	Rs.39,32,600/-

9. Contention of the appellant that the sister and brother of the deceased are not entitled to compensation is misplaced as there is nothing on record to suggest that the sister and brother are married. Moreover, sister and brother would be taken to be legal representatives of the deceased for the purposes of claim petition under section 166.



10. 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 appellant. Nothing whatsoever has been shown to this Court that would merit enhancement of the compensation granted to the appellant. 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.

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

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

05.03.2026
Sunena

(Nidhi Gupta)
Judge

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