

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****135****FAO-2399-2025(O&M)****Date of decision: 13.05.2026****Sunita & Others****...Appellant(s)****Vs.****Omparkash & Others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:-** Mr. Pankaj Attri, Advocate
for the appellants.Mr. Lalit Garg, Advocate
for respondent No.3.

NIDHI GUPTA, J.**CM-7586-CII-2025**

This is an application under Section 5 of Limitation Act for condonation of delay of 176 days in filing the appeal.

After going through the contents of the application, which is supported by affidavit of the appellant No.1, the same is allowed subject to all just exceptions and delay of 176 days in filing present appeal is condoned.

MAIN CASE

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.22,82,000/- awarded by the Motor Accident Claims Tribunal, Bhiwani (hereinafter 'the learned Tribunal') vide Award dated 16.07.2024 passed in MACT Petition No.RBT-179 dated 01.07.2022 filed under Section 166 of Motor Vehicles Act (hereinafter "the Act"). The 4 claimants are the 32-year-old widow, 12-year-old son, 10-year-



old son and 66-year-old mother of deceased Sunil Kumar, who was about 41 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 the deceased Sunil Kumar had died due to the injuries suffered by him in a motor vehicular accident that took place on 27.03.2022 due to the rash and negligent driving of Dumper bearing registration No.HR-63D-9604 (hereinafter “the offending vehicle”) being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3. The compensation has been awarded along with interest @ 7.5% per annum. Respondents were held jointly and severally liable to pay the compensation.

3. Learned 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.14,000/- per month. It is submitted that the appellants had duly produced on record Salary Certificate (Ex.P5) along with other service record to prove that deceased was working as Attendant in Kant Hospital, Bhiwani and earning Rs.30,000/- per month. However, the said evidence has been misread by the learned Tribunal.

4. It is further submitted that even under the conventional heads, only claimant No.1 has been granted spousal consortium of Rs.44,000/-; and nothing has been awarded by way of consortium to the other claimants. It is submitted that future prospects ought to have been added @ 30%.



Nothing has been granted towards love and affection; and claimants ought to have been awarded Rs.1 lakh each. Even interest should have been awarded @ 24% per annum. It is accordingly prayed that the present appeal be allowed and Award be modified.

5. Notice of motion.

6. On the asking of the Court, Mr. Lalit Garg, Advocate accepts notice on behalf of respondent No.3/Insurance Company. Learned counsel opposes the submissions advanced on behalf of the appellants and submits that the impugned Award suffers from no error; and the present appeal deserves to be dismissed.

7. 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.

8. It has been contended on behalf of the appellants that prior to the accident, deceased was serving as Attendant in Kant Hospital, Bhiwani and drawing salary of Rs.30,000/- per month. The appellants had also pleaded in the Claim Petition that deceased was an agriculturist and was having annual income to the tune of Rs.2 lakh. To prove their above-said assertions, the appellants had examined PW3 Rishpal, Record Keeper at Shivkant Hospital, Bhiwani, who had produced Salary Certificate (Ex.P5), Attendant Record (Ex.P6), Staff Salary Statement (Ex.P7), Balance Sheet for the year 2020 of Shivkant Hospital (Ex.P8) and Balance Sheet for year 2021



of Shivkant Hospital (Ex.P9). However, during his cross-examination, PW3 had admitted that the Attendance Record (Ex.P6) and Staff Salary statement (Ex.P7) do not bear the names of the fathers and/or addresses of the employees mentioned therein. PW3 further admitted that in Ex.P6 at point 'A', fine word is mentioned, however, he deposed on his own that in Column of Salary, fine is written due to printing error. Clearly therefore, the above-said evidence produced by the claimants was unreliable. Further, the claimants failed to produce any documentary proof of the alleged agricultural income of the deceased. Consequentially, learned Tribunal had assessed income of the deceased as Rs.14,000/- per month. I find no error in the same.

9. Further, age of the deceased was determined to be approximately 41 years at the time of accident on the basis of pleadings. Accordingly, the learned Tribunal had made an addition of 25% towards future prospects; and had correctly applied multiplier of 14. As there were 4 claimants, deduction of $1/4^{\text{th}}$ has been correctly made. However, under the conventional heads, the learned Tribunal has only awarded Rs.44,000/- to claimant No.1 by way of consortium; and Rs.16,500/- towards loss of estate; and Rs.16,500/- towards transportation and funeral expenses; thereby granting total compensation of Rs.22,82,000/-. As per Law, claimants No.2 to 4 are also entitled to filial and parental consortium of Rs.44,000/- each.

10. Accordingly, present appeal is **partly allowed**; and compensation payable to the claimants is re-assessed as follows: -



Head	Awarded by learned Tribunal	Re-assessed compensation
Income	Rs.14,000/- per month	Rs.14,000/- per month
Future prospects	(25%) Rs.3500/-	(25%) Rs.3500/-
Deduction	(1/4 th) Rs.4375/-	(1/4 th) Rs.4375/-
Multiplier	(14) Rs.13,125/- x 12 x 14 = Rs.22,05,000/-	(14) Rs.13,125/- x 12 x 14 = Rs.22,05,000/-
Loss of consortium	Rs.44,000/- to claimant No.1 only	Rs.44,000/- x 4 = Rs.1,76,000/- to all the claimants
Loss of estate	Rs.16,500/-	Rs.16,500/-
Transportation and funeral expenses	Rs.16,500/-	Rs.16,500/-
Total	Rs.22,82,000/-	Rs.24,14,000/-
Interest	7.5% p.a.	7.5% p.a.

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

13.05.2026

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No