

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

119

FAO-1162-2023 (O&M)
Date of decision: 23.04.2026**Komal Devi and others****...Appellant(s)****Vs.****Mukesh Kumar and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**Present:- Ms. Kritika Mandhan, Advocate
for the appellants.

NIDHI GUPTA, J.**CM-4512-CII-2023**

Prayer in this application filed under Section 5 of the Limitation Act read with Section 151 CPC is for condonation of delay of 106 days in filing the accompanying appeal.

2. The only reason cited by the applicant/appellant in the abovesaid application for condonation of 106 days delay in filing the appeal is as under:-

"2. That the appellants are simplicitor Villagers and do not know much about the court procedure especially the law of limitation. They have collected the documents and judgment from the counsel at lower court and the same has been handed over to a counsel of High Court through their counsel at lower Court in the month of July, 2022 i.e. well within limitation. However, in the month of December, 2022, on enquiry, the appellants have come to know that no appeal has been filed by the said counsel



on their behalf in this Hon'ble Court and when asked the reason for not filing the appeal, then it was informed that they have not make the full payment of counsel fees and other expenses and they have made only part payment, therefore, the appeal was not filed."

3. The above said reason given on behalf of the appellants is vague and does not constitute sufficient ground for condonation of inordinate delay of 106 days. The said reason reflects lackadaisical approach of the appellants in filing the present Appeal as, after handing over documents to the Id. Counsel, appellants did not pursue the matter. This cryptic explanation furnished by the applicants does not constitute 'sufficient cause'.

4. Duty lies upon the appellants to be vigilant towards their rights to pursue litigation diligently. The appellants cannot totally sleep upon the matter after allegedly entrusting the same to their counsel. In this situation, it would be apposite to refer to recent judgment of the Delhi High Court in **Moddus Media Pvt. Ltd. v. M/s. Scone Exhibition Pvt. Ltd., (Delhi): Law Finder Doc Id # 887148** holding that:

"11. The litigant owes a duty to be vigilant of his rights and is also expected to be equally vigilant about the judicial proceedings pending in the court of law against him or initiated at his instance. The litigant cannot be permitted to cast the entire blame on the Advocate. It appears that the blame is being attributed on the Advocate with a view to get the delay condoned and avoid the decree. After filing the civil suit or written statement, the litigant cannot go off to sleep and wake up from a deep slumber after passing a long time as if the court



is storage of the suits filed by such negligent litigants. Putting the entire blame upon the advocate and trying to make it out as if they were totally unaware of the nature or significance of the proceedings is a theory put forth by the appellant/applicant/defendant company, which cannot be accepted and ought not to have been accepted.”

5. Moreover, it is cardinal principle of law that delay of each day has to be explained. In this regard, reference may be made to a recent judgment of the Hon’ble Supreme Court in **Civil Appeal No. 11794 of 2025** titled as **Shivamma (Dead) by LRs Vs. Karnataka Housing Board and others, 2025 INSC 1104 decided on 12.09.2025, Law Finder Doc Id # 2777666**, wherein it is held that each day's delay has to be explained in a mathematical manner which has not been done by the applicant-appellants. No cogent reason or plausible explanation has been furnished by the applicant for condonation of such an inordinate and unexplained delay in filing the accompanying appeal. Moreover, condonation of such an inordinate delay would be tantamount to declaring the law of limitation obsolete/redundant, without any justification.

6. As such, no ground is made out for condoning inordinate delay of 106 days. Present application accordingly stands **dismissed**.

FAO-1162-2023 (O&M)

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.21,64,400/- awarded by the learned Motor Accidents Claims Tribunal, Kaithal (hereinafter “the learned Tribunal”) vide Award dated 30.05.2022 passed in MACP Case No. 24 dated 18.05.2021



filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as “the Act”). The 4 claimants are 21-year-old widow; 2-year-old minor son; 42-year-old mother; and 52-year-old father of the deceased Paramjeet, who was 22 years old at the time of accident.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that the deceased-Paramjeet had died due to the injuries suffered by him in a motor vehicular accident that took place on 31.03.2021 at about 8:00 p.m. due to the rash and negligent driving of a Car bearing registration No. HR06-AC-3516 (hereinafter “the offending vehicle”) being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. The above said compensation was awarded along with interest @ 6% per annum. All the 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.9,000/- p.m. It is submitted that appellants had duly proved on record that deceased was working as a Supervisor in M.R. Construction Company and earning Rs.20,000/- p.m. It is further submitted that less amount has been awarded by learned Tribunal under the conventional heads i.e. consortium, funeral expenses, loss of estate et cetera. Even the rate of interest as 6% is on the lower side.

4. It is accordingly prayed that the present Appeal be allowed; and the impugned Award be modified.



5. No other argument is raised on behalf of the appellants. I have heard learned counsel and perused the case file. I find no merit in the submissions advanced on behalf of the appellants.

6. Perusal of the record of the case shows that it was the pleaded case of the appellants before the Tribunal that prior to the accident, deceased was working as Supervisor with M.R. Construction Company, Kaithal and earning Rs.20,000/- p.m. However, except for the bald statement made by PW1/claimant No.1 Komal Devi/widow of the deceased, no documentary proof was produced by the appellants to prove the above said avocation or income of the deceased. No official from the said Company was examined by the appellants to prove their case. Even no bank account statement of the deceased was produced to substantiate their assertion. Accordingly in the lack of evidence, and while keeping in view that deceased has done one year course of Electrician from IIT Kaithal, Id. Tribunal had assessed income of Rs.9,000/- p.m. as that of skilled worker on the basis of relevant Minimum Wage Notification. I find no error in the same.

7. Further age of the deceased was determined to be 22 years at the time of death on the basis of his Aadhar Card Ex.P6 and Senior Secondary Examination Certificate Ex.P7; wherein his date of birth is mentioned as 23.06.1999. Accordingly, Tribunal had made an addition of 40% future prospects: and had correctly applied multiplier of 18. Claimant No.4 being 52-year-old father of the deceased was not taken as a dependent. Accordingly, deduction of $\frac{1}{3}^{\text{rd}}$ was made towards personal expenses.



8. Under the conventional heads, learned Tribunal had awarded an amount of Rs.40,000/- to claimant No.1 for loss of spousal consortium; Rs.15,000/- towards loss of estate; and Rs.15,000/- towards funeral expenses. Learned Tribunal had further awarded an amount of Rs.80,000/- to the claimants No. 3 and 4 i.e. parents of the deceased i.e. Rs.40,000/- each towards filial consortium. Over and above the said amounts, learned Tribunal has also awarded a sum of Rs.50,000/- each to all 4 claimants i.e. Rs.2 lacs towards loss of love and affection; thereby granting total compensation of Rs.21,64,400/-.

9. From the above, it is clear that learned Tribunal has awarded exorbitant amount of Rs.3,50,000/- under the conventional heads; whereas as per the structured formula enunciated by the Hon'ble Apex Court, an amount of about Rs.2 lacs was payable under the conventional heads. Clearly, therefore, appellants have already received compensation far in excess of what is admissible to them as per law.

10. Even otherwise, I have given my very thoughtful consideration to the submissions and contentions advanced on behalf of the appellants. I find that in the peculiar facts and circumstances of the present case no ground is made out to enhance the compensation, for the reasons given hereinbelow.

11. The pleaded case of the appellants in the claim petition as recorded by the Tribunal in para 2 of the impugned Award is as follows: –

“2. On 31.3.2021, Paramjeet (since deceased) was returning from Kaithal to his village: Rohera on motorcycle No.HR08-S-



6846 driven by him at moderate speed and on correct side of road. His father was following him on separate motor-cycle No.HR08-J-7716. At about 8.00 p.m. they reached about 4 acres ahead from Debon Canal towards village: Kasan. Meanwhile; car No.HR06-AC-3516 driven by respondent No.1-Mukesh Kumar, rashly, negligently & at high speed, came from opposite Kasan side. Paramjeet slowed down speed of his motor-cycle and took it on left side of road. Despite this, respondent No.1 struck his car, against motor-cycle of Paramjeet after coming on wrong side of road. Paramjeet fell alongwith motor-cycle; suffered multiple, serious & grievous injuries. Respondent No.1 stopped for sometime and then fled away from spot, alongwith offending car. Jagdish @ Jagdish Chander noted down registration number of offending car. Paramjeet was taken at Government Hospital-Kaithal, but was declared dead. His postmortem was conducted on 1.4.2021. Criminal case through FIR No.63 dated 1.4.2021 u/ss 279,304-A IPC was registered against respondent No.1 at P.S: Titram.”

12. On the basis of the statement made by the claimant No.4 Jagdish, father of the deceased, in respect of the accident dated 31.03.2021, an FIR No.63 dated 1.4.2021 u/ss 279,304-A IPC was registered against respondent No.1 at P.S: Titram. The said Jagdish eyewitness/claimant No.4 had appeared before the learned Tribunal as PW2. Testimony of Jagdish is recorded in paras 9 and 10 of the impugned Award, which read as follows: -

“Onus to prove this issue was on claimants. Testimony of PW-2 Jagdish @ Jagdish Chander has acquired importance. Through his duly sworn affidavit-Ex. PW2/A; he testified about rash, negligent and high speed driving of respondent No.1 to the cause of accident resulted on 31.3.2021, at about 8.00 p.m.,



while driving Car No.HR-06-AC-3516. He testified that his son Paramjeet was going on motor-cycle No.HR08-S-6846 and he (PW2) was following his son on motor-cycle No.HR08-J-7716. Car No.HR06-AC-3516 came from opposite side i.e. village: Kasan side and struck against motor-cycle of Paramjeet by coming on wrong side of road. Paramjeet fell alongwith motorcycle; suffered multiple, serious & grievous injuries. Respondent No.1, after causing accident had stopped, but fled alongwith car after sometime. He testified that his statement was recorded by police.

10. This witness has been cross-examined at length and he has maintained in his cross-examination that: he was behind motor-cycle of his son at relevant time of accident. He denied suggestion that he was not present near spot of accident and that it was hit & run case and on his false statement; car No. HR06-AC-3516, was involved, later on. He testified that his statement was recorded by police at about 10.00 a.m. in Government Hospital-Kaithal on next day. He was called by police after gap of 15-20 days for identification of driver of offending vehicle. He denied suggestion that no identification parade was ever got conducted through him or other persons by police and he was never called by police after recording his statement in Government Hospital-Kaithal and he is just filing-up lacuna to prove negligence. He admitted as correct that: he mentioned in his statement to police that car driver, alongwith his vehicle had fled, after causing accident. He denied suggestion that no accident took place with involvement of car No. HR06-AC-3516. He testified that: he mentioned registration number of offending vehicle in his statement to police. He denied suggestion that he is not an eye-witness and it was a case of hit & run and no other person had seen accident in question."



13. On the basis of statement made by Jagdish, claimant No.4, learned Tribunal decided issue No.1 in favour of the claimants and held that rash and negligent driving of the offending vehicle of respondent no.1 was proved; and therefore, claimants were entitled to compensation.

14. However, it is to be noted that in the criminal trial being faced by respondent No.1 Mukesh Kumar in the aforesaid FIR No. 63 dated 01.04.2021, the complainant Jagdish while appearing as PW2 before the Criminal Court has turned hostile. Consequentially, respondent No.1 has been acquitted by the learned Judicial Magistrate, 1st Class, Kaithal, vide judgment dated 06.09.2023. The relevant findings of learned Judicial Magistrate 1st Class, Kaithal are contained in para 9 of the judgment dated 06.06.2023. The relevant extract of which reads as under: -

"9. PW2 Jagdish alias Jagdish Kumar who deposed that on 31.3.2021, his son Paramjeet was coming for personal work to Kaithal from village Rohera on motor-cycle bearing registration No. HR08S-6846. At about 8.00 PM, his son had come back from Kaithal on his motor-cycle. He also followed his son on his motor-cycle to village Rohera. When, his son reached at village Deoban canal, towards village Kasan then one unknown car came rashly and negligent manner and hit the motorcycle of his son/deceased, as a result of which his son/deceased fell down along-with motor-cycle on the road. He could not see the number of vehicle and driver. He had seen accused in court but is not that driver. As he was not supporting the case of the prosecution, therefore, he was declared hostile and was allowed to be cross-examined by learned APP, but nothing could be extracted from his cross examination. During his cross-examination, he was confronted with statement Ex.PW2/A, to



which he stated that he never made any such statement to the police and the police had obtained his signatures on some blank papers. He pleaded his ignorance that the accused ever inflicted injuries to him. He denied the suggestion that he is deposing falsely due to compromise with the accused."

15. A bare reading of the above facts shows that before the learned JMIC, the claimant side has turned turtle on its statement made before the Tribunal. 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 claimant in the criminal trial. Clearly, no credence can be attributed to the contrary statements made by the claimant side before the learned Tribunal. It is to be seen that the appellants has been held entitled to compensation by the Tribunal only on the basis of statement made by the eyewitness-claimant No.4 to the effect that the accident in question had been caused due to the rash and negligent driving of the offending vehicle by the respondent no.1. However, from the above noted facts, it would appear that the claimant side has deposed falsely before the Tribunal only with a view to get the compensation. It is my view that the said act of the claimant side amounts to perjury.

16. I am supported in my view by most recent judgment of Hon'ble Supreme Court in **Rajamma v. M/s Reliance General Insurance Co. Ltd., (SC) : Law Finder Doc Id # 2784588** decided on 26.09.2025; wherein while upholding that *".....proof of accident in motor accident claims is based on*



the preponderance of probabilities”, it has simultaneously been held that “..... Suspicion on FIR registration and contradictions in witness testimony can lead to dismissal of claims. Testimony of eyewitness deemed unreliable due to contradictions and lack of supporting evidence. FIR and witness statements must be consistent and credible to establish the involvement of the offending vehicle and the negligence of the driver.” Thus, the Hon’ble Supreme Court has categorically enunciated that in case of contradiction in witness testimony, claim petition is liable to be dismissed. In the present case, as noted above, there is distinct contradiction in the case set up by the appellants before the Tribunal, and as projected by them before the learned JMIC.

18. This Court in **“Shri Ram General Insurance Company Limited Vs. Jeeto Devi & Others”** FAO-2231-2014 decided on 03.12.2019, held that:-

*“(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 2010(53) RCR (Civil) 651**, 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.”*



19. This Court in abovesaid judgment in **“United India Insurance Company Limited Vs. Kamla Devi & Others” (P&H) : Law Finder Doc Id # 251230** has 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 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."



11. In view of the above discussion, no ground is made out to enhance the compensation. The present Appeal is accordingly **dismissed** on merits as well as on ground of delay.

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

23.04.2026

Divyanshi

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No

(NIDHI GUPTA)
JUDGE