



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

**FAO No.4312 of 2018 (O&M)
Date of decision : 29.04.2025**

Uttam Chand and othersAppellants

Versus

Mohan Lal and othersRespondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Arun Singal, Advocate for the appellants.

Mr. Deepak Suri, Advocate for respondent No.4.

PANKAJ JAIN, J. (ORAL)

CM-14795-CII-2018

This is an application filed under Section 5 of Limitation Act seeking condonation of delay of 406 days in filing the instant appeal.

For the reasons recorded in the application, this Court is satisfied that the applicant/appellant has made out a sufficient cause for condonation of delay.

Consequently, the present application is allowed. The delay of 406 days in filing the instant appeal is hereby condoned.

FAO-4312-2018

Claimants are in appeal assailing quantum of compensation awarded by the MACT, Panipat on account of death of Laxmi Devi in a motor-vehicular accident, dated 14.06.2015.



2. Laxmi Devi, wife of Uttam Chand, died an unfortunate death in a motor-vehicular accident at the age of 65 years. She was a home-maker.

3. Tribunal assessed compensation, observing as under:

“22- I would like to mention here that petitioners have pleaded that deceased was earning ₹10,000/- per month by stitching clothes. However, except this oral evidence in the shape of Uttam Chand (PW-1), there is no cogent or relevant or admissible evidence on the file in order to prove the income of the deceased. So, mere bald statement of claimant Uttam Chand (PW-1) is not sufficient to believe this fact and as such in absence of anything on record, the deceased can be held only as a housewife. It has, however, now become a settled law that housewife can be put at par with a daily wage earning and should not be considered as non-earning member. Accordingly, income of deceased Laxmi Devi is taken as Rs.4200/- per month.

23- So far as dependency of the petitioners is concerned, the petitioner no.1 is the husband of the deceased and the petitioner no.2 is the major son of the deceased and the petitioner no.5 is the major and married daughter of the deceased. They cannot be held dependent upon the income of deceased. So far as petitioner no.3, daughter-in-law and petitioner no.4 grand son are concerned, since husband of petitioner no.3 and father of petitioner no.4 namely Sandeep is no more. As such, for the purpose of compensation, petitioners no.3 & 4 are held as dependents upon the deceased. As the dependent family members are two in



number and as per judgment of Hon'ble Apex Court in Sarla Verma & Ors. VS. Delhi Transport Corporation & Anr. 2009 ACJ 1298 (SC), deduction should be 1/3rd. Hence, after 1/3rd deduction, the annual dependency qua the petitioners is assessed Rs.2800 X 12 = 33,600/-. As per postmortem report Ex.P-10, the age of the deceased was 65 years and keeping in view the age of deceased as 65 years and after applying the multiplier of 5, the compensation comes to Rs.1,68,000/-.

24- Further, in view of the judgment of the Hon'ble Apex Court in Rajesh and others versus Rajbir Singh and other, 2013(3) Recent Civil Reports (Supreme Court) 170, loss of consortium is assessed as Rs.50,000/- and compensation for last rites is assessed as Rs.25,000/-, transportation is assessed as Rs.10,000/- and love and affection is assessed as Rs.50,000/-. Hence, total compensation on account of death of Laxmi Devi is assessed Rs.3,03,000/-."

4. In the considered opinion of this Court, the compensation assessed by the Tribunal, needs to be revisited.

5. Laxmi Devi was a home-maker. Her monthly income is assessed notionally as Rs.8,500/- per month. As per ratio of law laid down in the case of **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, (2009)6 SCC 121**, multiplier of 7 needs to be applied. 1/3rd needs to be deducted to calculate dependency. No future prospects are granted keeping in view the ratio of law laid down in **National Insurance Company Limited vs. Pranay Sethi and others', 2017 (16)**



SCC 680. Each of the four claimants i.e. claimant No.1, 2, 3 and 5 are entitled for an amount of Rs.48,000/- for loss of consortium. Further amount of Rs.18,000/- is awarded for loss of estate. Rs.18,000/- is awarded under the head of funeral expenses. The appellants shall be entitled for interest @ 7.5% per annum on the enhanced amount, from the date of filing of the claim petition till the actual date of realization.

6. The impugned award is modified to the aforesaid extent.
7. Needless to say any amount already paid to the claimants/ appellants in execution of the award shall be set off.
8. Instant appeal is disposed off accordingly.

April 29, 2025
Dpr

(Pankaj Jain)
Judge

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