IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 4513 of 2015 (O&M)
Date of Decision : 18.12.2015

Reliance General Insurance Co. Ltd. ....Appellant

Versus

Sohmal and others ....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Suvir Dewan, Advocate
for the appellant-Insurance Company.

Surinder Gupta, J.

CM No. 14437-CII of 2015

This is an application under Section 5 of the Limitation Act read with Section 151 of the Code of Civil Procedure (CPC) for condonation of delay of 160 days in filing the appeal.

Learned counsel for the applicant-appellant submits that the delay took place in procedural tangles involved in seeking approval of regional office to file appeal. However, the appellant has not gained due to delay in filing appeal in any manner.

In view of submission of learned counsel for appellant and reasons stated in the application, which is supported by affidavit, delay of 160 days in filing the instant appeal is condoned.

FAO No. 4513 of 2015

This is appeal by United India Insurance Co. Ltd. against the award dated 31.10.2014 passed by Motor Accident Claims Tribunal, Mewat (later referred to as 'the Tribunal')

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whereby compensation of ₹ 11,63,000/- was awarded to the claimants for the death of Budhram (later referred to as 'the deceased') in a motor accident with dumper bearing registration no. HR-74-6357 (later referred to as 'the offending vehicle') and being the case of contributory negligence the appellant-Insurance Company was held liable to pay 50% of the total compensation amount i.e. ₹ 5,81,500/-.

2. As the only dispute is with regard to grant of 50% addition in the income of deceased towards future prospects while calculating the amount of compensation, detail facts of the case are not being discussed.

3. Learned counsel for the appellant has argued that the Tribunal has wrongly allowed 50% addition in income of the deceased towards future prospects, particularly when the matter is under consideration before the Hon'ble Apex Court in the reference made in case of ***National Insurance Company Limited vs. Pushpa and others*, Appeal (C) No.8058 of 2014 decided on 02.07.2014(MANU/SC/1246/2014).**

4. In the case of ***Pushpa (supra)***, while differing with the view taken in case of ***Sarla Verma and others vs. Delhi Transport Corporation and anr., (2009) 6 SCC 121,*** it was observed as follows:-

> *"18. Therefore, we do not think that while making the observations in the last three lines of para 24 of* ***Sarla Verma*** *judgment, the Court had intended to lay down an absolute rule that there will be no addition in the income of a person who is self-employed or who is paid fixed wages. Rather, it*

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> *would be reasonable to say that a person who is self-employed or is engaged on fixed wages will also get 30% increase in his total income over a period of time and if he/she becomes the victim of an accident then the same formula deserves to be applied for calculating the amount of compensation."*

5. In case of ***Rajesh and others vs. Rajbir and others (2013) 9 SCC 54,*** a three Judges Bench of Hon'ble Apex Court has observed in para 11 and 12 as follows:-

> *"11. Since, the Court in **Santosh Devi's case**[1] (supra) actually intended to follow the principle in the case of salaried persons as laid in **Sarla Verma's case** (supra) and to make it applicable also to the self-employed and persons on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self-employed or persons with fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years.*
>
> *12. In **Sarla Verma's case** (supra), it has been stated that in the case of those above 50 years, there shall be no addition. Having regard to the fact that in the case of those self-employed or on fixed wages, where there is normally no age of superannuation, we are of the view that it will only be just and equitable to provide an addition*

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1 Santosh Devi v. National Insurance Co. Limited, (2012) 6 SCC 421

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> *of 15% in the case where the victim is between the age group of 50 to 60 years so as to make the compensation just, equitable, fair and reasonable. There shall normally be no addition thereafter. "*

6. Reference was made to a larger Bench of Hon'ble Apex Court in case of ***Pushpa (supra)*** on 02.07.2014. In the recent judgment dated 15.05.2015 in case titled ***Munna Lal Jain and others* vs. *Vipin Kumar Sharma and others*, 2015 (3) RCR (Civil) 447,** a three Judges Bench of Hon'ble Apex Court allowed future prospects in the case of self-employed persons following the observations made in case of ***Rajesh (supra)***.

7. The concept of future prospects envisages chances or opportunities for success and further progress in life which is a normal course of event for every human being involved in any avocation. Even if, keeping in view his ability, capacity etc., one may not be in a position to rise in life, there is another aspect that justifies the grant of addition in the income of the deceased, which is the 'inflationary trend' in which we all are living. For example, I take instance of a tailor. It is a matter of common knowledge that stitching charges have increased manifold during last two decades due to increase in expenses of material/labour charges/margin of persons in this profession, with consequent increase in their income. This is because of high increase in the cost of living. The dependents of a deceased in accident have also to face the same situation. The amount of compensation is required to be just and reasonable keeping the inflationary trend in view, where the prices of the basic amenities of life are likely

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to increase further.

8. As the view taken in case of ***Rajesh (supra)*** has been followed by the Hon'ble Apex Court in ***Munna Lal Jain (supra)***, the Tribunal committed no error while allowing 50% addition in income of deceased towards future prospects while allowing the compensation to the claimants. No interference on this score is called for.

9. No other point has been argued by learned counsel for the appellant.

This appeal has no merits. Dismissed.

December 18, 2015 **(SURINDER GUPTA)**
jk **JUDGE**

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