

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

FAO No. 3935 of 2013 (O&M)
Date of Decision: 05.09.2016

KIMTA AND ANOTHER

... Appellants

VS.

SURAJ PAL AND OTHERS

..Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Sandeep Lather, Advocate,
for the appellant.

Mr. R.S. Manhas, Advocate,
for respondent Nos. 1 and 2.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest?*

REKHA MITTAL, J. (Oral)

C.M. No. 15938-CII of 2013

Prayer in the application is for condoning delay of 450 days in filing the appeal.

Heard.

In view of the averments set up in the application supported by an affidavit of Kimta-appellant No.1, the same is allowed and delay of 450 days in filing the appeal stands condoned subject to the condition that the appellants shall forgo interest of the delayed period, if appeal is allowed.

Disposed of accordingly.

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The present appeal has been preferred by parents of the deceased against award dated 14.01.2012 passed by the Motor Accident Claims Tribunal, Jind (for short 'the Tribunal), whereby compensation has been

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awarded to Smt. Suman and others including present appellants in regard to death of Naresh Kumar in a motor vehicular accident that occurred on 29.03.2010.

The learned Tribunal assessed income of the deceased @ ₹ 4,000/- per month, deducted 1/3rd towards personal expenses, adopted multiplier of 16 to compute loss of dependency to the tune of ₹ 5,12,000/-. Another amount of ₹ 10,000/- has been awarded for loss of love and affection making total compensation of ₹ 5,22,000/-.

Counsel for the appellant has contended that the Tribunal has not awarded benefit of future prospects. Compensation under conventional heads needs relook and enhancement in the light of judgment of Hon'ble the Apex Court *Rajesh and others Vs. Rajbir Singh and others, 2013 (9) SCC 54*.

Learned counsel for respondent Nos. 1 and 2 has supported the award passed by the Tribunal. There is no representation on behalf of respondent No. 3 which was earlier being represented by Ms. Smriti Dhir, Advocate.

I have heard learned counsel for the parties and perused the paper book particularly the award passed by the Tribunal.

The Tribunal has not extended benefit of increase in income for future prospects in the light of judgment referred to above. The Tribunal has applied multiplier of 16 despite accepting that the deceased was 26 years of age at the time of death. In view of judgment of Hon'ble the Supreme Court in the *Sarla Verma and others Vs. Delhi Transport Corporation and another; 2009 (3) RCR (Civil) 77*, multiplier of 17 is admissible in the circumstances. In this manner loss of dependency comes to ₹ 8,16,000/- $[(4,000 \times 12 \times 17) +$

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4,08,000/- (50% of the future prospects) – 4,08,000/- (1/3rd deduction towards personal expenses.)]

The claimants are awarded an amount of ₹ 25,000/- each for funeral expenses and loss of estate. The mother of the deceased is awarded ₹ 50,000/- and the minor children Monu and Poonam are awarded ₹ 1,50,000/- in equal share for loss of love and affection. An amount of ₹ 1,00,000/- is awarded to the widow for loss of consortium.

The total compensation comes to ₹ 11,41,000/- and enhanced compensation is ₹ 6,19,000/- (11,41,000-5,22,000/-) which shall carry interest @ 7.5 percent per annum from the date of filing of the petition till realization excluding period of delay of 450 days, in terms of the order condoning delay in filing the appeal.

The enhanced compensation shall be payable to children of the deceased except an amount of Rs. 50,000/-, payable to the mother. The share of the minor shall be deposited in FDR, payable on attaining the age of majority.

The appeal is partly allowed, in the aforesaid terms.

September 5, 2016
Suresh Kumar

[REKHA MITTAL]
JUDGE

Whether speaking / reasoned ***Yes / No***

Whether Reportable ***Yes / No***