

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

**FAO No.9267 of 2014 (O&M)
Decided on: 04.08.2016**

Darshan Devi

....Appellant

Versus

Manish Kumar and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Lakshay Bajaj, Advocate
for Mr. Harkesh Manuja, Advocate
for the appellant.

Mr. Kunal Dawar, Advocate
for respondent No.2.

Mr. Sandeep Suri, Advocate
for respondent No.3.

REKHA MITTAL, J.

CM No.25755-CII of 2014

Prayer in this application is for condoning delay of 81 days
in filing the appeal.

Heard.

In view of averments made in the application supported by
an affidavit of Darshan Devi, the applicant-appellant and in absence of
any challenge to correctness of the averments set up in the application, I
am satisfied that delay has been sufficiently explained. Accordingly, the
application is allowed and delay of 81 days in filing the appeal stands
condoned.

MAIN CASE

The claimants are in appeal seeking enhancement of

compensation awarded by the Motor Accident Claims Tribunal, Karnal (for brevity 'the Tribunal') in respect of death of Harender Singh in a motor vehicular accident on 26.08.2012.

The Tribunal assessed income of the deceased at Rs.6,000/- per month, deducted 50% towards personal expenses, adopted a multiplier of 9 and computed loss of dependency to the tune of Rs.3,24,000/-. In addition, an amount of Rs.5,000/- has been awarded towards transportation and expenses on last rites, Rs.10,000/- for loss of consortium and Rs.5,980/- (rounded off to Rs.6,000/-) for medical treatment of the deceased.

Counsel for the appellant has submitted that the Tribunal has not allowed benefit of increase in income for future prospects to the extent of 15%. The compensation awarded under conventional heads needs re-look and enhancement.

Counsel for the insurance company has supported the award passed by the learned Tribunal with the submission that the matter with regard to grant of future prospects is pending consideration before a Larger Bench of Hon'ble the Supreme Court of India ***“National Insurance Company Limited Vs Pushpa and others”*** vide ***SLP No.8058/2014***.

I have heard counsel for the parties and perused the records particularly the award passed by the Tribunal.

So far as the plea with regard to grant of benefit of increase in income for future prospects, the mere fact that the matter is pending before a Larger Bench of Hon'ble the Supreme Court of India is not sufficient to deny the said benefit till the judgment in ***“Rajesh***

and others Vs. Rajbir Singh and others”, 2013(3) R.C.R. (Civil) 170

holds the field. In view of age of the deceased, the appellant is entitled to benefit of future prospects to the extent of 15%. In this manner, loss of dependency comes to **Rs.3,72,600/-** (Rs.3,24,000/- + Rs. 48,600/-).

The widow of the deceased shall be entitled to an amount of **Rs.1,00,000/-** for consortium. The appellant is allowed an amount of **Rs. 25,000/- each** for funeral expenses and loss of estate. The compensation awarded by the Tribunal to the extent of **Rs.5,000/-** for transportation and **Rs.6,000/-** (Rs.5,980/- rounded off to Rs.6,000/-) for treatment of the deceased shall remain intact. The total amount of compensation payable to the appellant comes to Rs.5,33,600/-. The enhanced compensation is calculated at **Rs.1,88,600/-** (Rs.5,33,600/- – Rs.3,45,000/-). The enhanced compensation shall carry interest @ 7.5% per annum from the date of filing of the petition till realization and shall be deposited in the shape of FDR in a nationalized bank for a period of three years.

The appeal is partly allowed in the aforesaid terms.

04.08.2016
yakub

(REKHA MITTAL)
JUDGE

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