

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

**FAO No.823 of 2015 (O&M)
Decided on: 01.12.2016**

Sultan and another

....Appellants

Versus

Sanjay and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Shilak Ram Hooda, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent No.3.

REKHA MITTAL, J. (Oral)

CM No.2156-CII of 2015

Prayer in this application is for condoning delay of 246 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Sultan, the applicant-appellant, the application is allowed and delay of 246 days in filing the appeal stands condoned.

MAIN CASE

The parents of the deceased are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Sonapat (in short 'the Tribunal') in regard to death of Vijay @ Tona in a motor vehicular accident that took place on 15.12.2010.

The Tribunal assessed income of the deceased at Rs.4,500/- per month, deducted 1/3rd for personal expenses and adopted a multiplier of 18 to compute loss of dependency at

Rs.6,48,000/-. In addition, an amount of Rs.25,000/- for funeral expenses has been awarded making total compensation at Rs.6,73,000/- payable with interest @ 7.5% per annum from the date of petition till realization.

Counsel for the appellants has submitted that the Tribunal has not allowed benefit of increase in income for future prospects to the extent of 50% in the light of judgment of Hon'ble the Apex Court ***“Rajesh and others Vs. Rajbir Singh and others”***, 2013(3) R.C.R. (Civil) 170. Compensation awarded under conventional heads needs enhancement.

Counsel for the insurance company, on the contrary, has disputed entitlement of future prospects with the plea that the matter regarding future prospects is pending consideration before a Larger Bench of Hon'ble the Supreme Court in view of reference made in ***“National Insurance Company Limited Vs Pushpa and others”*** vide ***SLP No.8058/2014***. Another submission made by counsel is that as Smt. Sonia widow of the deceased did not come forward to claim compensation, no loss of consortium is admissible in the circumstances.

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

The appellants cannot be denied benefit of increase in income for future prospects merely because a reference is pending before a Larger Bench of Hon'ble the Supreme Court till the judgment ***Rajesh and other's case (supra)*** is varied or set-aside. After extending benefit of future prospects to the extent of 50%, loss of dependency comes to ***Rs.9,72,000/-*** (Rs.4,500/- x 12 x 18 = Rs.9,72,000/- +

Rs.4,86,000/- (50% for future prospects) = Rs.14,58,000/- –
Rs.4,86,000/- (1/3rd deduction towards personal expenses).

There is no denial that the deceased was married and Smt. Sonia – respondent No.4 is widow of the deceased. As the deceased left behind his widow, she is to be allowed benefit of loss of consortium disregarding the fact that she has not preferred an application for compensation. Accordingly, an amount of **Rs.1,00,000/-** for loss of consortium to the widow is awarded. In addition, an amount of **Rs.50,000/-** for loss of love and affection to the mother and **Rs.25,000/-** each for expenses on funeral and loss of estate is awarded. The total compensation comes to Rs.11,72,000/- and the enhanced compensation is **Rs.4,99,000/-** (Rs.11,72,000/- – Rs.6,73,000/-) payable with interest @ 7.5% per annum from the date of petition till realization.

Out of additional amount of compensation, Rs.1,00,000/- shall be payable to the widow and the remaining amount to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

01.12.2016
yakub

(REKHA MITTAL)
JUDGE

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