IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.8725 of 2015(O&M)

Date of decision:27.9.2016

Lachmi @ Lichma Devi and others ….Appellants

VERSUS

Jaswinder Singh and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Amit Singla, Advocate for the appellants.

Mr. R.S. Sharma, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

CM No.27665-CII of 2015

Prayer in this application is for condoning delay of 18 days in filing the appeal.

In view of the averments made in the application supported by an affidavit of Mr. Satish Sharma, Clerk of the Advocate, the application is allowed and delay of 18 days in filing the appeal stands condoned.

Disposed of accordingly.

CM No.27666-CII of 2015

Prayer in this application is for condoning delay of 1017 days in re-filing the appeal.

In view of the averments made in the application supported by an affidavit of Mr. Satish Sharma, Clerk of the Advocate, the application is allowed and delay of 1017 days in re-filing the appeal stands condoned but subject to the condition that in case the appeal is allowed, the appellants shall forego interest for the period of delay.

Disposed of accordingly.

FAO No.8725 of 2015

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Fatehabad (in short 'the Tribunal') in regard to death of Banwari in a motor vehicular accident that took place on 18.09.2011 due to rash and negligent driving of Truck bearing No.PB12-J-9676 driven by Jaswinder Singh- respondent No.1.

The Tribunal has assessed income of the deceased at Rs.5,280/- per month, deducted 1/5th for personal expenses, adopted a multiplier of 14 to compute loss of dependency at Rs.7,09,032/-. In addition, an amount of Rs.5,000/- each has been awarded for last rites as well as rituals, making total compensation to the tune of Rs.7,19,032/- payable with interest at the rate of 9% per annum from the date of petition till realization.

Counsel for the appellants would contend that as the Tribunal has assessed age of the deceased between age group of 35-40 years, the admissible multiplier would be 15 in place of 14. The Tribunal has not allowed benefit of increase in income for future prospects that is admissible to the extent of 50%. Compensation awarded under conventional heads needs enhancement.

Counsel for the respondent (Insurance Company) has supported the award with the submission that no case is made out for enhancement.

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

The Tribunal has allowed deduction towards personal expenses to the extent of $1/5^{th}$. As there is no evidence that father of the deceased was dependent on his earning, in view of enunciation of law laid down in Smt. Sarla Verma and others versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77, the admissible deduction would be $1/4^{th}$ in place of $1/5^{th}$. However, the multiplier, in the present circumstances, would be 15 in place of 14. The appellants are entitled to increase in income for future prospects to the extent of 50% in the light of judgment Rajesh and others Vs. Rajbir Singh and others, 2013 (3) RCR (Civil) 170. In this manner, loss of dependency comes to Rs.10,69,200/- [Rs.9,50,400/- (Rs.5280 x 12 x 15) + Rs.4,75,200/- (50% future prospects) – Rs.3,56,400/- ($1/4^{th}$ deduction towards personal expenses).

The widow of the deceased is awarded an amount of Rs.1,00,000/- for loss of consortium, the minor children are allowed an amount of Rs.1,50,000/- in equal share and Smt. Tulsan @ Tulsi Devi, mother Rs.50,000/- for loss of love and affection and the appellants shall be entitled to an amount of Rs.25,000/- each for expenses on funeral and loss of estate.

In view of the above, total compensation comes to Rs.14,19,200/- and the enhanced compensation is Rs.7,00,168/- (Rs.14,19,200/- - Rs.7,19,032/-), payable with interest at the rate of 7.5% per annum from the date of petition till realization except for the delayed period of 1017 days. The enhanced compensation shall be payable to the widow and the minor children in equal share except the amount of Rs.50,000/- payable to mother of the deceased. The enhanced compensation payable to children of the deceased shall be deposited in a

Fixed Deposit Receipt till they attain the age of majority and to the widow shall be deposited in a Fixed Deposit Receipt for a period of three years

Disposed of accordingly.

SEPTEMBER 27, 2016 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no
Whether reportable : yes/no