IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.4855 of 2014(O&M)

Date of decision: 1.12.2017

Nitash Devi and others …..Appellants

VERSUS

Jai Parkash and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Tapan Kumar, Advocate for the appellants.

Mr. Gurpreet Singh, Advocate for respondent No.1.

None for respondent No.3.

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REKHA MITTAL, J. (Oral)

CM No.13618-CII of 2014

Prayer in this application is for condonation of delay of 290 days in filing the appeal.

Heard.

In view of the averments made in the application supported by affidavit of Nitash Devi - appellant No.1, the application is allowed and delay of 290 days in filing the appeal stands condoned, subject to condition that in case, the appellants succeed in appeal, they will forego interest for the delayed period.

The application stands disposed of.

FAO No.4855 of 2014

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Narnaul (in short 'the Tribunal') in regard to death of Kuldeep in a motor vehicular accident that took place on 24.05.2012.

The Tribunal has awarded compensation to the tune of Rs.5,59,200/-, detailed hereunder:-

Monthly income of the deceased	Rs.4200/-
Deduction for personal expenses	1/4th
Multiplier	14
Loss of dependency	Rs.5,29,200/-
	(Rs.37800 x 14)
Transportation and last rites	Rs.20,000/-
Consortium	Rs.10,000/-

Counsel for the appellant would urge that the deceased is held to be 26 years old, therefore, admissible multiplier in the light of judgment of Hon'ble the Supreme Court in **Smt. Sarla Verma and others versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77.** should be 17. The Tribunal has not allowed benefit of increase in income for future prospects to the extent of 40%. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the other hand, has supported assessment of compensation by the Tribunal with the plea that adequate compensation has been awarded. Another submission made by counsel is that as income of the deceased has been assessed by taking a clue from minimum wage available at the relevant time, claimants are not entitled to benefit of future prospects.

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

There is no dispute that the Tribunal has held that the deceased was 26 years old at the time of occurrence. He is recorded to be 26 years old in his post-mortem report. In the light of enunciation of law laid down in <u>Smt. Sarla Verma's case</u> (supra), admissible multiplier would be 17. The Tribunal has deducted 1/4th of the income for personal expenses of the deceased. The application for compensation was filed by the widow, minor son and parents of the deceased. Counsel for the claimants has failed to point out any materials on record to substantiate plea of the claimants that father of the deceased was dependent on his earning. Under the circumstances, admissible deduction for personal expenses would be 1/3rd.

The deceased was a young boy aged 26 years. He left behind his widow and minor child. There is nothing on record suggestive of the fact that he was suffering from any disability to impair his capacity to earn livelihood for himself and his family. The deceased would not have stagnated at income of Rs.4200/-, had he remained alive. I stand fortified in my observations from the fact that the State Governments revise minimum wages periodically at short intervals. Under the circumstances, it is difficult to accept contention of the insurance company that claimants are not entitled to benefit of increase in income for future prospects. The claimants are extended benefit of increase in income to the extent of 40%. In this manner, loss of dependency comes to Rs.7,99,680/- [Rs.8,56,800/- (Rs.4200/- x 12 x 17 + Rs.3,42,720/- (40% towards future prospects) – Rs.3,99,840/- (1/3rd deduction towards personal expenses)].

The claimants shall be entitled to following compensation under conventional heads in the light of latest enunciation by Hon'ble the Supreme Court in **<u>SLP (Civil) No.25590 of 2014 titled National</u>**

<u>Insurance Company Ltd. Vs. Pranay Sethi and others, decided on 31.10.2017</u>:-

Loss of consortium	Rs.40,000/-
Funeral expenses/last rites	Rs.15,000/-
Loss of estate	Rs.15,000/-

In view of the above, total compensation comes to Rs.8,69,680/- and the additional amount is Rs.3,10,480/- (Rs.8,69,680/- - Rs.5,59,200/-), which shall carry interest at the rate of 7.5% per annum from the date of petition till realization except for the period of delay of 290 days, payable to widow and minor child of the deceased in the ratio 30:70. The amount falling to share of the minor shall be deposited in a Fixed Deposit Receipt till he attains the age of majority or for a period of three years, whichever is later. Interest accruing on the FDR shall be paid to mother of the minor for meeting expenses on his education and living.

The appeal is partly allowed in the aforesaid terms.

DECEMBER 1, 2017 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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