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

**FAO No.6247 of 2013 (O&M)
Date of Decision: 13.09.2017**

ASHA RANI & ORS

.....Appellants

Vs

PARMOD KUMAR & ORS

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Ashwani Arora, Advocate
for the appellants.

None for respondent No.1.

None for respondent No.2
(service dispensed with vide order dt.7.5.2015)

Mr. Sanjeev Goyal, Advocate
for respondent No.3.

RAJ MOHAN SINGH, J. (Oral)

CM No.25643-CII of 2013

Prayer made in this application is for condonation of
delay of 33 days in filing the appeal.

Notice of the application.

Mr. Sanjeev Goyal, Advocate accepts notice on behalf
of respondent No.3.

Heard.

For the reasons mentioned in the application and after hearing learned counsel for the parties, delay of 33 days in filing the appeal is condoned.

Main case

[1]. This is an appeal preferred against the award dated 15.01.2013 passed by the Motor Accident Claims Tribunal, Chandigarh (hereinafter to be referred as 'the Tribunal') by the claimants for enhancement of compensation on account of death of Pawan Kumar in a motor vehicular accident.

[2]. Brief facts are that the accident in question took place on 23.09.2009, when deceased Pawan Kumar was going on the road leading from Transport Area Chowk, Sector 26 Chandigarh while pulling his rickshaw rehri loaded with vegetables. He was followed by his brother-in-law Ramji Gupta. When they reached near Sukhna Bridge, the offending vehicle came in a rash and negligent manner from behind and struck against the rehri of Pawan Kumar, who fell down on the road and received grievous injuries on his person. He was removed to PGI, Chandigarh where he died.

[3]. The Tribunal while recording finding under issue No.1 held that the accident in question took place due to rash and negligent driving of the offending vehicle by respondent No.1. The deceased was working as vegetable hawker and his

income was assessed to be Rs.4,000/- per month. Keeping in view the age of the deceased to be 35 years at the time of accident, future increase of 30% of monthly salary was answered in his favour and loss of annual income of the deceased was calculated to be Rs.62,400/-. After deducting 1/4th of income of the deceased towards his personal and living expenses, the Tribunal assessed an amount of Rs.46,800/- per annum towards loss of income. As per ratio laid down in **Smt. Sarla Verma vs. Delhi Transport Corporation, 2009(3) RCR (Civil) 77**, multiplier of 16 was applied and in this way an amount of Rs.7,48,800/- was assessed towards loss of dependency of the family.

[4]. The Tribunal awarded an amount of Rs.5,000/- towards funeral expenses and an amount of Rs.5,000/- towards loss of consortium was awarded in favour of claimant No.1. In this way, total amount of compensation was calculated to be Rs.7,58,800/-. The said amount of compensation was ordered to carry interest @ 7% per annum from the date of institution of the claim petition till final realization of the amount.

[5]. I have heard learned counsel for the parties.

[6]. The Tribunal has awarded Rs.5,000/- towards loss of consortium to the widow/claimant No.1 and nothing has been

awarded by the Tribunal towards loss of love and affection to the other claimants. There are four claimants. In view of ratio laid down by the Hon'ble Apex Court in **Smt. Neeta w/o Kallappa Kadolkar and others vs. The Divn. Manager, MSRTC, Kolhapur, 2015(1) RCR (Civil) 625**, the amount of Rs.5,000/- awarded by the Tribunal in favour of the wife towards loss of consortium is increased to Rs.1,00,000/- and the remaining claimants are held entitled to Rs.1,00,000/- each towards loss of love and affection. Therefore, an amount of Rs.3,00,000/- is awarded under the head of loss of love and affection.

[7]. At this stage, learned counsel for respondent No.3 disputes the award of Rs.1,00,000/- in favour of each of the claimants, but in view of ratio laid in **Smt. Neeta's** case (supra), the objection of learned counsel is not sustainable and is hereby rejected.

[8]. The Tribunal has awarded an amount of Rs.5,000/- towards funeral expenses, which in my considered opinion, is found to be on lower side. Therefore, an amount of Rs.25,000/- is awarded under the aforesaid head. In this way total amount of compensation after re-assessment can be calculated as under:-

Sr. No.	Heads	Amount awarded by the Tribunal	Amount assessed in Appeal	Difference
1	Loss of dependency of the family	Rs.7,48,800/-	Rs.7,48,800/-	Nil
2	Loss of consortium to wife	Rs.5,000/-	Rs.1,00,000/-	Rs.95,000/-
3	Funeral expenses	Rs.5,000/-	Rs.25,000/-	Rs.20,000/-
4	Loss of love and affection to the three claimants	Nil	Rs.3,00,000/-	Rs.3,00,000/-
Total Compensation		Rs.7,58,800/-	Rs.11,73,800/-	Rs.4,15,000/-

[9]. The enhanced amount i.e. Rs.4,15,000/- would carry interest @ 7.5% per annum from the date of filing of the claim petition till final realization of the same. The other conditions as formulated by the Tribunal shall remain in force.

[10]. In view of aforesaid modification, the present appeal stands disposed of.

September 13, 2017

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No