IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM No.28931-CII of 2012 in

FAO No.156 of 1994(O&M)

Date of decision: 2.5.2018

Taranjit Kaur …..Appellant

VERSUS

Nahipal and another .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Abjit Singh Kang, Advocate for
Mr. B.S. Gill, Advocate for the appellant.

Mr. Vikas Suri, Advocate for respondent No.2.

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REKHA MITTAL, J. (Oral)

CM No.28931-CII of 2012

Prayer in this application is for condoning delay of 1399 days in filing the application for recalling.

Heard.

In view of averments made in the application supported by an affidavit of Taranjit Kaur- applicant/appellant, the application is allowed. Delay of 1399 days in filing the application for recalling stands condoned.

Disposed of accordingly.

CM No.28932-CII of 2012

Heard.

In view of averments made in the application supported by an affidavit of Taranjit Kaur- applicant/appellant, the same is allowed. Order dated 11.12.2008 is recalled and the appeal is ordered to be restored to its original number and stage.

Disposed of accordingly.

FAO No.156 of 1994

The claimant is in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Ropar (in short 'the Tribunal') in regard to death of Avtar Singh in a motor vehicular accident that took place on 28.05.1991.

Counsel for the appellant would state that service of respondent No.1 was dispensed with earlier but later since the appeal was dismissed for non-prosecution and the case was again fixed for service of respondent No.1. It is prayed that in view of the earlier order dispensing with service of respondent No.1, service of respondent No.1 may be dispensed with. Ordered accordingly.

The Tribunal has awarded compensation to the tune of Rs.96,000/- detailed hereunder:-

Monthly income of the deceased	Rs.2652/-
Multiplier	16
Loss of dependency	Rs.96,000/-

Counsel for the claimant/appellant would urge that application for compensation was filed by the widow and Gian Kaur, mother of the deceased but unfortunately Gian Kaur died during pendency of petition before the Tribunal and her name was deleted vide order dated 30.03.1992. It is further argued that entire salary of the deceased is required to be taken into account for computing loss of dependency by applying appropriate multiplier, deduction for personal expenses and addition for future prospects in the light of judgment of Hon'ble the Supreme Court **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77** and **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270.** It is further argued that even if the claimant, widow of the deceased was also working as a Teacher and earning Rs.2703/- per month, she cannot be denied benefit of loss of dependency as well as loss to estate.

Counsel representing respondent No.2 has supported assessment made by the Tribunal.

The Tribunal in para 17 of the award has adverted to the question of assessment of compensation particularly income of the deceased and extent of income to be taken into account for computing loss of dependency. Indisputably, the application for compensation was filed by the widow and mother of the deceased. Mother of the deceased died during pendency of proceedings before the Tribunal. As has been rightly argued by counsel for the claimant that even if widow of the deceased is gainfully employed, she cannot be denied her right to claim compensation qua loss of dependency or a substantial amount qua loss to estate. The mother of the deceased was also entitled to get compensation qua loss of dependency. In the given scenario, entire salary of the deceased shall be taken into account for computing loss of dependency. After deducting 1/3rd towards personal expenses and applying multiplier of 17 on the basis of age of deceased and extending benefit of future prospects at the rate of 50% as the deceased was a Teacher in Government High School Marauli Kalan, loss of dependency comes to Rs.5,41,008/- [Rs.5,41,008/- (Rs.2652 x 12 x 17) + Rs.2,70,504/- (50% future prospects) – Rs.2,70,504/- (1/3rd deduction towards personal expenses)].

The claimant shall be entitled to following compensation under conventional heads :-

Loss of consortium to the widow	Rs.40,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-

In view of the above, total compensation comes to Rs.6,11,008/- and the additional amount is Rs.5,15,008/- (Rs.6,11,008/- - Rs.96,000/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization except for a period of delay of 1399 days in filing application for restoration of the appeal.

The appeal is partly allowed in the aforesaid terms.

MAY 2, 2018 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no

Whether reportable : yes/no