IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4304 of 2010(O&M)

Date of decision: 29.1.2018

Usha and others …..Appellants

VERSUS

Ompal and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Ajay Kumar Sharma, Advocate for the appellants.

Ms. Anamika Mehra, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

CM No.18339-CII of 2010

Prayer in this application is for condonation of delay of 969 days in filing the appeal.

Heard.

In view of the averments made in the application supported by an affidavit of Smt. Usha- appellant No.1, the application is allowed and delay of 969 days in filing the appeal stands condoned, subject to condition that in case the appellants succeed in appeal, they will forego interest for the period of delay.

Disposed of accordingly.

FAO No.4304 of 2010

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Faridabad (in short 'the Tribunal') in regard to death of Manbir in a motor vehicular accident that took place on 18.06.2005.

The Tribunal has awarded compensation to the tune of Rs.3,26,872/- detailed hereunder:-

Monthly income of the deceased	Rs.2500/-
Deduction for personal expenses	1/3rd
Multiplier	16
Loss of dependency	Rs.3,19,872/-
Expenses on last rites	Rs.2,000/-
Loss of consortium	Rs.5,000/-

Counsel for the claimants would argue that the deceased was working as driver on Jeep No.HR29-G-3452 and he was driving the said jeep at the time of accident. Panna Lal PW-5 has deposed that he used to pay Rs.6000/- per month to Manbir Singh as salary being the driver. It is argued that income of the deceased is liable to be assessed accordingly. Claimants are entitled to increase in income for future prospects at the rate of 40%. As the deceased was less than 30 years, appropriate multiplier is 17 in place of 16. Adequate compensation may be allowed under conventional heads.

Counsel representing the Insurance Company has supported assessment of income by the Tribunal on the premise that statement of Panna Lal with regard to salary paid to the deceased does not find corroboration from any documentary evidence. There is no material on record even with regard to financial status of Panna Lal to accept his statement on its face value that he was paying Rs.6,000/- per month to the deceased.

There is no dispute that deceased was working as Driver on Jeep No.HR29-G-3452 when he unfortunately met with an accident and succumbed to the injuries. There is no clear much less cogent evidence on record with regard to income of the deceased. Taking into consideration the minimum wage of a semi-skilled worker available at the relevant time, Tribunal has rightly assessed income at Rs.2,500/- per month. However, the claimants shall be entitled to increase in income for future prospects at the rate of 40%. As the deceased was in the age bracket of 26-30, admissible multiplier is 17. Deduction for personal expenses allowed by the Tribunal is affirmed. In this manner, loss of dependency comes to Rs.4,76,000/- [Rs.5,10,000/- (Rs.2500 x 12 x 17) + Rs.2,04,000/- (40% future prospects) – Rs.2,38,000/- (1/3rd deduction towards personal expenses).

The claimants shall be entitled to following compensation under conventional heads in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270**:-

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

In view of the above, total compensation comes to Rs.5,46,000/- and the additional amount is Rs.2,19,128/- (Rs.5,46,000/- - Rs.3,26,872/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization except for the period of delay of 969 days.

The appeal is partly allowed in the aforesaid terms.

JANUARY 29, 2018 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**
Whether speaking/reasoned : yes/no
Whether reportable : yes/no