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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5708 of 2010 (O&M)with
XOBJC No.89-CII-2011 (O&M)
Date of Decision: 22.05.2018.

JANGIR SINGH AND ANR.
......Appellants

Vs

SUKHPAL SINGH AND ORS.
....Respondents

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

Present: Mr. Veneet Sharma, Advocate
for the appellants.

Mr. Paul S. Saini, Advocate with
Mr. Vipul Sharma, Advocate
for respondent No.3/cross-objector.

Mr. Suvir Dewan, Advocate
for respondent No.5.

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RAJ MOHAN SINGH, J. (Oral)

CM No.25009-CII of 2010

Prayer made in this application is for condonation of delay of 269 days in filing the present appeal.

Notice of the application was issued to respondent No.3-Insurance Company on 22.07.2011.

Perusal of the record would show that the respondent No.3-Insurance Company has preferred cross-objections, rather

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to tile any reply to the application.

Keeping in view the pendency of the appeal as well as cross-objections for the last eight years, I deem it appropriate to consider the appeal as well as cross-objections on merits after condoning the delay of 269 days in filing of the appeal in the interest of justice.

In view of above, delay of 269 days in filing the present appeal is hereby condoned.

Applications stands disposed of.

Main case

[1]. The present appeal has been preferred by the claimants for enhancement of compensation against the award dated 02.04.2009 passed by the Motor Accident Claims Tribunal, Barnala (hereinafter to be referred as 'the Tribunal').

[2]. Brief facts are that a motor vehicular accident took place on 06.12.2006 in which Harvinder Singh died. The Tribunal found the accident to be the result of rash and negligent driving of offending vehicle by respondent No.1. The age of the deceased was found to be 24½ years at the time of accident. Income of the deceased was assessed to be Rs.4000/- per month by the Tribunal to which a deduction to the extent of 1/3rd towards personal expenses of the deceased was made. A multiplier of 12 was applied. An amount of Rs.5000/-

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was assessed on account of funeral expenses. In this way, the Tribunal awarded an amount of Rs.3,89,000/- as compensation to the claimants.

[3]. Learned counsel for the appellants submitted that in fact, keeping in view the age of deceased, multiplier of 18 should have been applied and future prospects to the tune of 40% should have been credited towards additional income of the deceased.

[4]. As against this learned counsel for respondent No.3-Insurance Company submitted that as per prevailing minimum wages in the year 2006, income of the deceased was not to be assessed Rs.4000/- per month. Even if, he was to be treated as skilled labourers, then his income should have been assessed as Rs.3,000/- per month, keeping in view the increasing trend of minimum wages from the year 2008 onwards. Since the deceased was unmarried, therefore, a reduction to the extent of 50% should have been applied towards self expenses of the deceased.

[5]. I have considered the submissions made by learned counsel for the parties.

[6]. With the assistance of learned counsel for the both the parties, income of the deceased is taken to be Rs.3000/- per

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month. In addition to the aforesaid, 40% of the income i.e. Rs.1200/- is to be credited towards future prospects of the deceased. Thus, the total monthly income of the deceased is assessed to be Rs.4200/- to which deduction to the extent of 50% is to be applied towards personal expenses of the deceased. In this way, the total amount comes to Rs.2100/- per month i.e. Rs.25,200/- per annum.

[7]. The deceased was aged about 24½ years at the time of accident. In view of ratio laid down in ***Sarla Verma vs. Delhi Transportation Corporation, 2009 ACJ 1298 (SC)*** multiplier of 18 is to be applied on the basis of age of the deceased. In this way assessment towards dependency comes out to be Rs.4,53,600/- (25,200 x 18). An Additional amount of Rs.15,000/- can be assessed towards loss of estate and Rs.15,000/- towards funeral expenses in view of ratio of ***National Insurance Co. Limited vs. Pranay Sethi, 2017 SCC 1270***. In this way, total amount of compensation comes out to be Rs.4,83,600/- (4,53,600 + 15,000 + 15,000).

[9]. The enhanced amount i.e. Rs.94,600/- (4,83,600 - 3,89,000) would carry interest @ 7.5% per annum from the date of filing of the claim petition till final realization of the amount.

[10]. For the reasons recorded hereinabove, the present

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appeal as well as cross-objections are disposed of. All other misc. applications are also disposed of accordingly.

May 22, 2018 **(RAJ MOHAN SINGH)**
Atik **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No

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