

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

**FAO No.4576 of 2014(O&M)**

**Date of decision: 27.3.2018**

Neelam .....Appellant

**VERSUS**

Sunil and others .....Respondents

**\*\*\*\*\***

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. G.S. Thind, Advocate for the appellant.

Mr. A.S. Sidhu, Advocate for respondent No.3.

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**REKHA MITTAL, J. (Oral)**

**CM No.12961-CII of 2014**

Prayer in this application is for condonation of delay of 23 days in re-filing the appeal.

Heard.

In view of the averments made in the application supported by an affidavit of Mr. G.S. Thind, Advocate for the appellant, the application is allowed and delay of 23 days in re-filing the appeal stands condoned.

Disposed of accordingly.

**CM No.12962-CII of 2014**

Prayer in this application is for condonation of delay of 108 days in filing the appeal.

Heard.

In view of the averments made in the application supported by an affidavit of Neelam - appellant, the application is allowed and delay of

108 days in filing the appeal stands condoned, subject to condition that in case, the appellant succeeds in appeal, she will forgo interest for the period of delay.

Disposed of accordingly.

**FAO No.4576 of 2014**

The claimant is in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Patiala (in short 'the Tribunal') in regard to death of Varinder Kumar @ Vinay Kumar in a motor vehicular accident that took place on 26.11.2011.

The Tribunal has awarded compensation to the tune of Rs.4,40,000/- detailed hereunder:-

|                                 |               |
|---------------------------------|---------------|
| Monthly income of the deceased  | Rs.4000/-     |
| Deduction for personal expenses | 50%           |
| Multiplier                      | 18            |
| Loss of dependency              | Rs.4,32,000/- |
| Loss of consortium              | Rs.4,000/-    |
| Funeral expenses                | Rs.2,000/-    |
| Transportation expenses         | Rs.2,000/-    |

Counsel for the claimant would urge that income of the deceased assessed by the Tribunal is on lower side. The claimant is entitled to benefit of increase in income for future prospects at the rate of 40%. Adequate compensation may be allowed under conventional heads.

Counsel for the insurance company has supported the assessment made by the Tribunal.

The Tribunal has assessed income of the deceased at Rs.4,000/- per month. There is no clear evidence on record with regard to

avocation and income of the deceased. The minimum wage of an unskilled labour was approximately Rs.4,000/- per month at the relevant time. Accordingly, income of the deceased assessed by the Tribunal is ordered to be affirmed. However, claimant shall be entitled to benefit of increase in income for future prospects at the rate of 40%. Multiplier and deduction for personal expenses allowed by the Tribunal are affirmed. In this manner, loss of dependency comes to Rs.6,04,800/- [Rs.8,64,000/- (Rs.4000 x 12 x 18) + Rs.3,45,600/- (40% future prospects) – Rs.6,04,800/- (50% deduction towards personal expenses)].

The claimant 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** :-

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

In view of the above, total compensation comes to Rs.6,34,800/- and the additional amount is Rs.1,94,800/- (Rs.6,34,800/- - Rs.4,40,000/-) 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 108 days in filing the appeal.

The appeal is partly allowed in the aforesaid terms.

**MARCH 27, 2018**  
'D. Gulati'

**(REKHA MITTAL)**  
**JUDGE**

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