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

FAO No. 6032 of 2013(O&M) &

XOBJC-208-CII of 2014

Date of decision: 3.12.2018

Shri Ram General Insurance Co. Ltd. …..Appellant

VERSUS

Sharbati Devi and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Arun Sharma, Advocate for the appellant.

None for the respondents No.1 to 5.

Mr. Garvit Kalra, Advocate for respondent No.7.

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REKHA MITTAL, J. (Oral)

CM No.24811-CII of 2013

Prayer in this application is for condoning delay of 105 days in re-filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Mr. Tajender K. Joshi, Advocate for the appellant, the application is allowed. Delay of 105 days in re-filing the appeal stands condoned.

Disposed of accordingly.

CM No.24486-CII of 2014

Prayer in this application is for condoning delay of 20 days in filing the cross objections.

Heard.

In view of averments made in the application supported by an affidavit of Sharbati Devi, one of the cross objectors, the application is allowed. Delay of 20 days in filing the cross objections stands condoned.

Disposed of accordingly.

FAO No.6032 of 2013

This order will dispose of FAO No.6032 of 2013 and cross objections No.208-CII of 2014 as these have emerged out of the same award dated 02.11.2012 passed by the Motor Accidents Claims Tribunal, Hissar (in short 'the Tribunal') on account of death of Prabhati Ram in a motor vehicular accident that took place on 24.11.2010.

FAO No.6032 of 2013 has been filed by Shri Ram General Insurance Co. Ltd. (hereinafter to be referred as the insurance company) whereas cross objections have been filed by the claimants seeking enhancement of compensation.

Counsel for the insurance company would inform that appeal has been preferred only to assail quantum of compensation assessed by the Tribunal.

The Tribunal has awarded compensation of Rs.6,12,020/- detailed hereunder:-

Monthly income of the deceased	Rs.4600/-
Addition in income for future prospects	30%
Deduction for personal expenses	1/4th
Multiplier	11
Loss of dependency	Rs.5,92,020/-
Expenses on last rites and transportation of dead body	Rs.10000/-

The plea of the claimants is that the deceased was a Mason as well as Welder, earning Rs.15,000/- per month. The claimants failed to adduce satisfactory much less cogent evidence to prove avocation and income of the deceased. The Tribunal has assessed his income by treating him as a casual worker. When the case is examined in the light of notification issued by the State of Haryana fixing minimum wage at the relevant time, there is no scope for enhancement of income of the deceased as minimum wage of a semi skilled worker was Rs.4608.21p. As the deceased was 55 years old, addition in income for future prospects would be 10% as against 30% allowed by the Tribunal. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency comes to Rs.5,00,940/- [Rs.6,07,200/- (Rs.4600 x 12 x 11) + Rs.60,720/- (10% future prospects) – Rs.1,66,980/- (1/4th deduction towards personal expenses).

Under conventional heads, claimants shall be entitle to Rs.2,30,000/- detailed hereunder:-

Loss of consortium to claimants No.1 to 5	Rs.2,00,000/- (Rs.40,000/- each)
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-

In view of the above, total compensation is Rs.7,30,940/- and the additional amount is Rs.1,18,920/- (Rs.7,30,940/- - Rs.6,12,020/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization, to widow of the deceased.

For the foregoing reasons, the appeal filed by the insurance company is dismissed and cross objections filed by the claimants are partly allowed.

DECEMBER 3, 2018 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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