IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 954 of 2014(O&M)

Date of decision: 20.4.2018

Sharda and others ....Appellants

VERSUS

Mala Ram and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Ms. Mehak Sahwney, Advocate for
Mr. Vipin Yadav, Advocate for the appellants.

Mr. Ashwani Talwar, Advocate for respondent No.3.

REKHA MITTAL, J.(Oral)

CM No.3136-CII of 2014

Prayer in this application is for condonation of delay of 286 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Sharda- appellant, the application is allowed and delay of 286 days in filing the appeal stands condoned, subject to condition that in case, the appellants succeed in appeal, they will forgo interest for the period of delay.

Disposed of accordingly.

FAO No.954 of 2014

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Narnaul (in short 'the Tribunal') in regard to death of Kanwar Singh in a motor vehicular accident that took place on 16.07.2011.

The Tribunal has awarded compensation of Rs.8,42,960/- detailed hereunder:-

Monthly income of the deceased	Rs.6096/-
Deduction for personal expenses	1/4th
Multiplier	15
Loss of dependency	Rs.8,22,960/-
Loss of consortium	Rs.10,000/-
Funeral expenses/last rites	Rs.10,000/-

The claimants have proved on record that the deceased was working as a driver with Shorewala Global Industries Pvt. Ltd., Neemrana, District Alwar, Rajasthan at salary of Rs.8,000/- p.m. including conveyance allowance Rs.656/- and HRA Rs.1248/-. The Tribunal has accepted plea of the claimants that the deceased was working in the aforesaid concern at salary of Rs.8,000/- per month but deducted the amount of conveyance allowance and HRA while computing loss of dependency.

Counsel for the insurance company is not in a position to dispute that entire salary of the deceased is to be taken into account for computing loss of dependency in the light of judgment of Hon'ble the Supreme Court **Manasvi Jain versus Delhi Transport Corporation, (2014) 13 SCC 22** and **Shyamwati Sharma and others v. Karam Singh and others, (2010) 12 SCC 378**. The Tribunal has rightly allowed deduction for personal expenses and multiplier of 15. However, as deceased was 36 years old, claimants shall be entitled to addition in income for future prospects at the rate of 40%. In this manner, loss of dependency comes to Rs.15,12,000/- [Rs.14,40,000/- (Rs.8000/- x 12 x 15) + Rs.5,76,000/- (40% towards future prospects) – Rs.5,04,00/- (1/4th deduction towards personal expenses)].

Under conventional heads, claimants shall be entitled to Rs.70,000/- detailed hereunder:-

Loss of consortium	Rs.40,000/-
Expenses on funeral/last rites	Rs.15,000/-
Loss of estate	Rs.15,000/-

In view of the above, total compensation comes to Rs.15,82,000/- and the additional amount is Rs.739,040/- (Rs.15,82,000/- - Rs.8,42,960/-), 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 286 days in filing the appeal to widow and minor children of the deceased in the ratio 30: 35: 35. The amount payable to the minors shall be invested in Fixed Deposits, to be encashed on their attaining age of majority or three years thereafter, whichever is later,.

The appeal is partly allowed in the aforesaid terms.

APRIL 20, 2018 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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