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

FAO-8221-2015 (O&M)

Date of decision:17.01.2018

NANCHI DEVI

... Appellant

versus

CHHAGAN SINGH AND ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr.J.P. Jangu, Advocate, for the appellant.

Mr.Vikas Kumar, Advocate, for respondents No.1 and 2.

Mr. S.P. Arora, Advocate, for respondent No.3.

HARI PAL VERMA, J.(Oral)

CM-720-CII-2018

Prayer in this application filed under Section 151 CPC is for placing on record the reply to the application filed under Section 5 of Limitation Act, on behalf of respondent No.3.

For the reasons stated in the application, same is allowed and the reply to the application filed under Section 5 of Limitation Act, on behalf of respondent No.3, is taken on record.

CM-25934-CII-2015

Prayer in this application filed under Section 5 of Limitation Act read with Section 151 CPC is for condonation of delay of 890 days in filing the present appeal.

Learned counsel for the applicant has argued that after the death of Satish (applicant's son), the whole family was under tremendous shock. The applicant was not well conversant with the limitation.

Furthermore, they could not arrange for money so that appeal seeking

enhancement of compensation can be filed. In this manner, delay of 890 days in filing the appeal has occurred. The delay is not intentional nor mala fide in any manner.

On the other hand, learned counsel for the respondent No.3- Insurance Company has pleaded that in order to seek condonation of delay, the applicant is required to establish sufficient cause and as held in **Basawaraj and another Versus Special Land Acquisition Collector-2014 (1) RCR (Civil) 603**, the delay being inordinate cannot be condoned.

I have heard learned counsel for the parties.

Noticing the fact that the applicant has pleaded that they were under tremendous shock after the death of their son, who was the only earning member in the family and, therefore, they were short of money, this Court finds that the applicant has shown sufficient cause to condone the delay.

In view of above, application is allowed and the delay of 890 days in filing the appeal is condoned.

FAO-8221-2015

The appellant-claimant has filed the present appeal against the award dated 26.02.2013 passed by Motor Accident Claims Tribunal, Rewari (for short, 'the Tribunal'), seeking enhancement of compensation, on account of death of Satish in a motor vehicular accident, which took place on 18.06.2010.

Briefly stated, the claimant filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 with the averments that on 18.06.2010, her son, namely, Satish (since deceased) was going to village Patan (Sikar) on motorcycle bearing registration No.HR-36C-1656 and at about 12.50 PM

when he reached village Durga Ki Nantgal, a Tavera vehicle bearing registration No.RJ-23UA-3210 being driven by Chhagan Singh i.e. respondent No.1 in a rash and negligent manner, came from the opposite side and struck into the motorcycle. Due to the impact, Satish suffered multiple grievous injuries on his body and succumbed to the same. The persons standing nearby, namely, Kanaram and Data Ram, also sustained injuries in the said accident. It was averred that the accident was witnessed by Ram Karan son of Mangtu Ram, resident of Raikinala. An FIR was also registered on the statement of Jai Singh.

The Tribunal held the driver responsible for the accident and held the claimant entitled to a compensation of ₹4,08,200/- alongwith interest @6% per annum from the date of filing of the claim petition till its realization.

Dissatisfied with the aforesaid amount of compensation, the claimant-appellant has filed the present appeal for enhancement.

Learned counsel for the appellant has argued that on account of death of her son, namely, Satish, who was 30 years of age and was working as a mechanic at Sarvotam Tractors, earning ₹6,800/- per month, the Tribunal has wrongly assessed his income at ₹4,200/- per month. No amount under the head of future prospects has been granted to the appellant. Even the multiplier applied by the Tribunal is on the lower side.

Learned counsel for respondents No.1 and 2 as well as learned counsel for respondent No.3-Insurance Company, state that adequate compensation has already been granted to the claimant and there is hardly any scope for interference.

I have heard learned counsel for the parties.

The argument qua future prospects and applicability of multiplier, raised by learned counsel for appellant carries weight. In view of the law laid down by Hon'ble Apex Court in **National Insurance Company Limited Versus Pranay Sethi and Others - 2017(4) RCR (Civil) 1009**, the claimant is entitled for future prospects @ 40%. Similarly in view of law laid down in **Sarla Verma and others Versus Delhi Transport Corporation and Anr. (2009)6 SCC 121**, multiplier of 17 is required to be applied in the case as the deceased was 30 years of age at the time of accident.

Claimant failed to prove that the deceased was working with M/s Sarvotam Tractors. Pawan Kumar, PW3 in his cross examination has specifically stated that he has not issued any appointment letter to deceased Satish Kumar. Thus, the Tribunal has rightly assessed the monthly income of the deceased at ₹ 4200/-.

In view of the above, compensation to which the claimant is entitled, is computed as follows:-

<u>Sr. No.</u>	<u>Heads</u>	<u>Calculation</u>
(i)	Monthly income of deceased	: ₹4,200/-
	40% of above (i) is to be added towards future prospects.	: ₹1,680/-
(ii)	Total monthly income of deceased.	: ₹5,880/-
(iii)	Annual income of deceased	: ₹70,560/-
(iv)	Income after deduction of 50% towards personal expenses of the deceased.	: ₹35,280/-
(v)	Compensation after applying multiplier of 17.	: ₹5,99,760/-
(vi)	Conventional heads	
	Loss of Estate:	₹15,000/-
	Love and affection:	₹40,000/-
	Funeral expenses:	₹15,000/-
	Total amount of compensation	: ₹6,69,760/-

Accordingly, the present appeal is allowed and the award is modified to the aforesaid extent. Since the amount of ₹4,08,200/- has already been awarded to the claimant, the said amount shall be deducted

from this modified award. However, the enhanced amount shall fetch interest @ 7.5% per annum from the date of filing of claim petition till its realization.

(HARI PAL VERMA)
JUDGE

17.01.2018
sanjeev

Whether speaking/reasoned	Yes/No.
Whether Reportable:	Yes/No.