IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.8250 of 2017(O&M)

Date of decision: 16.1.2018

United India Insurance Co. Ltd. …..Appellant

VERSUS

Manju and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Varun Mittal, Advocate for
Mr. Vikas Mohan Gupta, Advocate for the appellant.

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REKHA MITTAL, J. (Oral)

CM No.27147-CII of 2017

Prayer in this application is for condoning delay of 8 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Mamta Bansal, Deputy Manager, United India Insurance Co. Ltd., the application is allowed. Delay of 8 days in filing the appeal stands condoned.

Disposed of accordingly.

FAO No.8250 of 2017

The present appeal directs challenge against award dated 30.08.2017 passed by the Motor Accidents Claims Tribunal, Charkhi Dadri (in short 'the Tribunal') whereby compensation has been awarded in regard to death of Anil Kumar in a motor vehicular accident that took place on 05.12.2015.

The Tribunal has awarded compensation to the tune of Rs.14,21,000/- payable with interest at the rate of 7.5% per annum. Counsel for the appellant-Insurance Company would inform that the appeal has been preferred to challenge quantum of compensation assessed by the Tribunal primarily on two counts. The first submission made by counsel is that the Tribunal has allowed benefit of increase in income for future prospects at the rate of 50% as against 40% admissible in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270.** Similarly, compensation awarded under conventional heads is more than what is permissible in the light of aforesaid judgment.

I have heard counsel for the appellant, perused the paper-book particularly the award dated 30.08.2017.

The Tribunal has assessed income of the deceased at Rs.6,000/- per month on the basis of minimum wage available at the relevant time. However, the Tribunal has allowed benefit of increase in income for future prospects at the rate of 50%. Under conventional heads, a sum of Rs.1,00,000/- for loss of consortium, love and affection and loss to estate etc. and Rs.25,000/- for funeral expenses and transportation expenses has been awarded.

When the instant case is examined in the light of enunciation by Hon'ble the Apex Court in **Pranay Sethi and others' case** (supra), I find merit in contention of the appellant that future prospects are to be restricted to 40% and compensation under conventional heads to an amount of Rs.70,000/- for loss of consortium, funeral expenses and loss to estate. Accordingly, loss of dependency comes to Rs.12,09,600/- [Rs.11,52,000/- (Rs.6000/- x 12 x 16) + Rs.4,60,800/- (40% future prospects) – Rs.4,03,200/- (1/4th deduction towards personal expenses).

In view of the above, total compensation comes to Rs.12,79,600/- and compensation assessed by the Tribunal is reduced to the extent of Rs.1,41,400/- (Rs.14,21,000/- - Rs.12,79,600/-).

The appeal is partly allowed in the aforesaid terms.

Before parting with this order, it is pertinent to mention here that amount of compensation assessed by the Tribunal has been reduced without notice to the claimants. They would be at liberty to file an appropriate application if they have any grievance to express. It is further clarified that in case the claimants file an appeal for enhancement, any observation made for disposing of the appeal filed by the insurance company would not cause prejudice to their rights.

JANUARY 16, 2018 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no

Whether reportable : yes/no