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

FAO No. 5856 of 2018(O&M)

Date of decision: 19.9.2018

The New India Assurance Co. Ltd. …..Appellant

VERSUS

Suman Rana and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Neeraj Khanna, Advocate for the appellant.

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REKHA MITTAL, J. (Oral)

CM No.20281-CII of 2018

Prayer in this application is for condoning delay of 37 days in re-filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Sh. Neeraj Khanna, Advocate, the application is allowed. Delay of 37 days in re-filing the appeal stands condoned.

Disposed of accordingly.

CM No.20282-CII of 2018

Prayer in this application is for condoning delay of 24 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Pushpa Bhardwaj, Duly Constituted Attorney of the appellant, the application is allowed. Delay of 24 days in filing the appeal stands condoned.

Disposed of accordingly.

<u>FAO No.5856 of 2018</u>

The present appeal directs challenge against award dated 27.02.2018 passed by the Motor Accidents Claims Tribunal, Jalandhar (in short 'the Tribunal') whereby compensation has been assessed on account of death of Shamsher Singh in a motor vehicular accident that took place on 12.04.2016.

The Tribunal has awarded compensation of Rs.60,10,492/- detailed hereunder:-

Annual income of the deceased	Rs.4,69,862/-
Deduction for personal expenses	1/4th
Future prospects	30%
Multiplier	13
Loss of dependency	Rs.59,55,482/-
Loss of consortium	Rs.40,000/-
Funeral expenses	Rs.15,000/-

Counsel for the appellants would inform, at the outset, that the appeal has been preferred by the insurance company to challenge quantum of compensation assessed by the Tribunal. To bring home his contention, he has two-fold submissions to make. It is argued that the Tribunal has allowed benefit of increase in income for future prospects at the rate of 30% but liability to pay income tax qua that amount has not been deducted. It is further argued that the application for compensation has been filed by the widow and two minor children of the deceased but the Tribunal has wrongly allowed deduction for personal expenses to the tune of 1/4th as against 1/3rd, permissible in the light of judgment of Hon'ble the Supreme Court **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77**.

The deceased was working as Head Constable in Central Reserve Police Force (in short 'CRPF'). Total salary of deceased was Rs.4,83,399/- per annum. After deducting income tax of Rs.13,537/-, net income has been worked out to the tune of Rs.4,69,862/- . The Tribunal has applied addition for future prospects at the rate of 30% on the net income of the deceased. The manner in which the Tribunal has proceeded to assess net annual income and thereafter allowed addition for future prospects is in complete consonance with the latest judgment of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270**. However, the Tribunal has faulted by applying deduction for personal expenses to the tune of 1/4th in place of 1/3rd as application for compensation has been filed by widow and two minor children of the deceased. After applying deduction to the extent of 1/3rd, loss of dependency is calculated at Rs.52,93,779/- [Rs.61,08,206/- (Rs.4,69,862/- x 13) + Rs.18,32,462/- (30% towards future prospects) – Rs.26,46,889/- (1/3rd deduction towards personal expenses)].

Under conventional heads, the Tribunal has awarded a sum of Rs.55,000/- noticed hereinbefore. The claimants shall be entitled to additional sum of Rs.15,000/- towards loss to estate.

In view of the above, total compensation comes to Rs.53,63,779/- and the compensation allowed by the Tribunal is reduced to the extent of Rs.6,46,713/- (Rs.60,10,492/- - Rs.53,63,779/-) .

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 insurer would not cause prejudice to their right.

SEPTEMBER 19, 2018 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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