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

FAO No. 810 of 2019(O&M)

Date of decision: 10.12.2019

Rajwinder Kaur and others …..Appellants

VERSUS

Jasbir Singh and another .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. A.S. Khinda, Advocate for the appellants.

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REKHA MITTAL, J. (Oral)

CM No.2693-CII of 2019

Prayer in this application is for condonation of delay of 160 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Rajwinder Kaur- appellant No.1, the application is allowed and delay of 160 days in filing the appeal stands condoned, subject to the condition that in case the appellants succeed in appeal, they will forgo interest for the period of delay.

Disposed of accordingly.

FAO No.810 of 2019

Mr. D.P. Gupta, Advocate has caused appearance on behalf of the insurance company.

The claimants are in appeal seeking enhancement of compensation awarded by Motor Accidents Claims Tribunal, Kapurthala (in short 'the Tribunal') on account of death of Inderjit Singh in a motor vehicular accident that took place on 03.03.2016.

The Tribunal awarded Rs.13,67,000/- detailed hereunder:-

Monthly income of the deceased	Rs.8000/-
Deduction for personal expenses	1/4th
Multiplier	16
Loss of dependency	Rs.11,52,000/-
Loss of consortium to the widow	Rs.1,00,000/-
Loss of love, affection, care and Guidance to each of the claimants	Rs.90,000/- (Rs.18,000/- each)
Expenses on funeral	Rs.25000/-

The plea of the claimants is that deceased was working as Mason and running a dairy. The Tribunal has noticed that no convincing evidence was produced to establish the factum of avocation of the deceased. The deceased was a young person aged about 32 years. The claim has been filed by his widow, two minor children and parents. Taking a clue from notification issued by the State of Punjab, there is no scope for making addition with regard to monthly income of the deceased. Deduction for personal expenses and multiplier allowed by the Tribunal are correct and affirmed. Claimants shall be entitle to addition in income for future prospects at the rate of 40%. In this manner, loss of dependency comes to Rs.16,12,800/- [Rs.15,36,000/- (Rs.8000 x 12 x 16) + Rs.6,14,400/- (40% future prospects) – Rs.5,37,600/- (1/4th deduction towards personal expenses).

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that the claimants shall be entitle to

Rs.70,000/- in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC** 1270 and **Sebastiani Lakra and others Vs. National Insurance Co. Ltd. and another, AIR 2018 SC 5034,** detailed hereunder:-

Loss of consortium to the widow	Rs.40,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-

In view of the above, total compensation comes to Rs.16,82,800/- and the additional amount is Rs.3,15,800/- (Rs.16,82,800/- - Rs.13,67,000/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization except for a period of delay of 160 days in filing the appeal, to be shared by minor claimants in equal ratio, to be invested in fixed deposit till they attain the age of majority or for a period of three years, whichever is later. Interest accruing on the fixed deposit shall be payable to their mother for meeting expenses on their living and education.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

DECEMBER 10, 2019 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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