IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103 **FAO No.6011 of 2014 (O&M)**
Date of Decision : 28.03.2019

TARSEM KAUR
....APPELLANT

V/S

SURJIT SINGH AND OTHERS
....RESPONDENTS

CORAM : HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. Vishal Nehra, Advocate for the appellant.

None for respondent Nos.1, 2 and 4 to 7.

Mr. Suman Jain, Advocate with
Mr. Shubham Jain, Advocate
for respondent No.3/*Insurance Company*.

B.S. WALIA, J. (ORAL)

CM No.16604 & 16005-CII of 2014

Appeal has been filed by the widow of Sohan Singh, who died in a motor vehicular accident on 23.01.2011, praying for enhancement of compensation awarded by the learned Motor Accidents Claims Tribunal, Hoshiarpur (hereinafter referred to as '*the Tribunal*'). Besides applications have been filed, seeking condonation of 249 days delay in filing of the appeal as also 12 days delay in re-filing of the appeal.

Learned counsel for respondent No.3/*Insurance Company* states that he has no objection, if 249 days delay in filing and 12 days delay in re-filing the appeal is condoned subject to the period of delay in filing and refilling not being counted for the purpose of grant of interest.

Accordingly, in view of the reasons mentioned in the applications, as also statement of learned counsel for the parties, delay in late filing and re-filing of the appeal is condoned.

FAO No.6011 of 2014

[1] Learned counsel contended that the appeal is liable to be allowed, award modified, compensation payable enhanced *inter alia* on the ground that in view of paragraph No.61(iv) & No.61(viii) of the decision in '***National Insurance Company Limited*** *versus* ***Pranay Sethi and others***', ***2017(4) RCR (Civil) 1009*** the appellant is liable to be awarded compensation on account of future prospects and appropriate compensation under conventional heads respectively besides interest is liable to paid @ 9% per annum in view of the decision of Hon'ble the Supreme Court in **'*Neeta w/o Kallappa Kadolkar and others versus The Divisional Manager, MSRTC, Kolhapur*', *2015(3) SCC 590.***

[2] Learned counsel for the respondent/*Insurance Company* has fairly not opposed the claim of the appellant except for contending that the period of delay in filing and refilling be not counted for the purpose of grant of interest.

[3] I have considered the submissions of learned counsel for the parties.

[4] Admittedly, the deceased was held to be 60 years of age. The learned Tribunal assessed the income of the deceased as ₹4,000/- per month, made deduction @ 1/3rd of the income of the deceased towards his personal expenses, applied multiplier of '9', besides by awarding ₹5,000/- on account of funeral expenses, ₹5,000/- on account of loss of estate and ₹5,000/- on account

of loss of consortium, awarded total compensation of ₹3,03,000/- along with interest @ 7% per annum.

[5] As per paragraph No.61(iv) of the decision of Hon'ble the Supreme Court in ***Pranay Sethi's*** *case (supra)*, since the deceased was 60 years of age, therefore, 10% of the established income minus the tax component is to be taken into account towards award of future prospects. Learned counsels for the parties are in agreement that the income of the deceased was below the taxable limit. Accordingly, 10% of ₹4,000/-, shall be taken into account for the purpose of working out the future prospects.

[6] Further as per paragraph No.61(viii) of the decision of Hon'ble the Supreme Court in ***Pranay Sethi's*** *case (supra)*, the appellant is entitled to award of ₹40,000/- on account of loss of consortium, ₹15,000/- on account of loss of estate and ₹15,000/- on account of funeral expenses, as against ₹5,000/- awarded by the Tribunal on each account.

[7] Lastly, the accident in the instant case took place on 23.01.2011. Hon'ble the Supreme Court in the case of an accident which took place on 22.03.2011 awarded interest @ 9% per annum in Neeta's case (supra) by relying on its earlier decision in '***Municipal Corporation of Delhi, Delhi*** *versus* ***Association of Victims of Uphaar Tragedy and others***', *2011 (4) SCC 481.* Accordingly, I am of the considered view that the interest payable on the awarded amount is liable to be enhanced from 7% to 9% per annum.

[8] In the light of the position as noted above, the appellant-claimant is held entitled to the following compensation:-

Particulars	**Assessed by the Tribunal (in ₹)**	**Re-assessed by the High Court (in ₹)**
Income assessed	4000/-	4000/-

Add:Future Prospects	NIL	10% of 4000 i.e. ₹400/-
Deductions	1/3rd of 4000=1333.33 (rounded off to Rs.1333/-)	1/3rd of 4400=1466.66 (rounded off to Rs.1467/-).
Total Income	2667/-	2933/-
Multiplier	9	9
Dependency	2667 x 12 x 9= 2,88,036/-	2933 x 12 x 9 = 3,16,764/-
Funeral Expenses	5000/-	15,000/-
Loss of Estate	5000/-	15,000/-
Loss of Consortium	5000/-	40,000/-
Total compensation	**3,03,036/-**	**3,86,764/-**
Rate of Interest	7%	9% on the enhanced amount with effect from the date of claim petition till date of realization minus period of delay i.e. 249 days in filing the appeal.

[9] Accordingly, as against compensation of ₹3,03,036/- along with interest @ 7% the appellant-claimant is held entitled to compensation of ₹3,86,764/- along with interest @ 9% on the enhanced amount with effect from the date of claim petition till date of realization, minus the period of 249 days i.e. delay in filing of the appeal. Resultantly, the appeal is allowed. Award dated 26.03.2013, passed by the learned Tribunal, Hoshiarpur, is modified to the extent as noted above.

(B.S. WALIA)
JUDGE

March 28, 2019
'Rajneesh'

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No