

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

**FAO No. 7358 of 2011(O&M) &
XOBJC-33-CII of 2012**

Date of decision: 19.9.2019

Kanchan

.....Appellant

VERSUS

MD Pepsu Road Transport Corporation Patiala and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. I.P. Atre, Advocate for the appellant.

Mr. Harsh Chopra, Advocate for the respondents/cross objectors.

REKHA MITTAL, J.(Oral)

CM No.14267-CII of 2017

Prayer in this application is for bringing on record legal representatives (in short 'LRs') of Kanchan (since deceased) – appellant.

In view of averments made in the application supported by an affidavit of Rohit Kanojia, applicant No.1, the application is allowed and persons mentioned in para 1 of the application are allowed to be brought on record as LR's of deceased Kanchan subject to just exceptions and for the purpose of present lis.

Amended memo of parties is taken on record.

Disposed of accordingly.

CM No.31258-CII of 2011

Prayer in this application is for condoning delay of 1½ months in re-filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Kanchan, the appellant, the application is allowed. Delay of 1½ months in re-filing the appeal stands condoned.

Disposed of accordingly.

**FAO No.7358 of 2011 &
XOBJC-33-CII of 2012**

This order will dispose of FAO No.7358 of 2011 and cross objections No.33-CII of 2012 as these have emerged out of award dated 30.08.2011 passed by the Motor Accidents Claims Tribunal, Chandigarh whereby compensation has been assessed on account of death of Rohit aged about 8 years in a motor vehicular accident that took place on 26.06.2008

FAO No.7358 of 2011 has been filed by the claimant seeking enhancement of compensation whereas cross objections have been filed by Pepsu Road Transport Corporation, Patiala and others (respondents No.1 and 2 therein).

The Tribunal has awarded Rs.2,00,000/- in view of the observations recorded in para 17 of award.

Counsel for the claimant would argue that compensation allowed by the Tribunal is grossly inadequate and merits enhancement. He would further submit that notional income of the deceased may be assessed at Rs.50,000/- per annum and compensation may be assessed accordingly.

Counsel representing the respondents/cross objectors, on the contrary, would argue that earlier father of the deceased filed an application for grant of compensation but the same was withdrawn. It is argued that Kanchan, mother of the deceased filed instant claim application

by concealing the factum of claim filed by her husband. It is vehemently argued that as the claimant is guilty of concealing material fact from the Court she is not entitle to any relief much less grant of compensation.

Be that as it may, it is undisputed position of the case that deceased Rohit @ Anokhi was a resident of Colony No.5, Chandigarh. The family belongs to lower strata of the society. Taking a clue from income of a non-earning person provided in Second Schedule appended to Section 163-A of the Motor Vehicles Act, 1988 (in short 'the Act'), annual income of the deceased is assessed at Rs.15,000/-. Multiplier of 15 is applied in the light of judgment of Hon'ble the Supreme Court **Puttamma and others vs K.L. Narayana Reddy and another, 2014(1) R.C.R. (Civil) 443**. Accordingly loss of dependency is calculated at Rs.2,25,000/- (Rs.15,000/- x 15).

Claimant shall be entitle to Rs.15,000/- for expenses on funeral/last rites of deceased.

In view of the above, total compensation is Rs.2,40,000/- and additional amount is Rs.40,000/- (Rs.2,40,000/- - Rs.2,00,000/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization.

The contention raised by counsel for the respondents/cross objectors with regard to filing of earlier claim application by father of the deceased or non-disclosure thereof by the claimant cannot be taken as a circumstance to deny payment of compensation to mother of the deceased particularly in the circumstances that Section 166 of the Act is a beneficial social legislation enacted with an object to make good the loss, the victim family has suffered as the money can do. In this context, reference can be

made to judgment of Hon’ble the Supreme Court **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77.**

In view of what has been discussed hereinbefore, the appeal is partly allowed in the aforesaid terms. As a natural corollary, cross objections preferred by the respondents therein are dismissed, leaving the parties to bear their own costs.

SEPTEMBER 19, 2019		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no