

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

FAO No. 2478 of 2018(O&M)

Date of decision: 15.3.2019

Sadhari @ Sadhare

.....Appellant

VERSUS

Balwant Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Pankaj Mehta, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

CM No.9256-CII of 2018

Prayer in this application is for condoning delay of 1 day in re-filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Mr. Pankaj Mehta, Advocate, the application is allowed. Delay of 1 day in re-filing the appeal stands condoned.

Disposed of accordingly.

CM No.9257-CII of 2018

Prayer in this application is for condoning delay of 69 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Sadhari @ Sadhare, the appellant, the application is allowed. Delay of 69 days in filing the appeal stands condoned.

Disposed of accordingly.

FAO No.2478 of 2018

The claimant is in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Hisar (in short 'the Tribunal') whereby compensation has been assessed on account of death of Priyanka in a motor vehicular accident that took place in October 2015.

The Tribunal has awarded Rs.3,50,000/- detailed hereunder:-

Notional income of the deceased	Rs.15000/-
Multiplier	15
Loss of dependency	Rs.2,25,000/-
Loss of love and affection	Rs.1,00,000/-
Expenses on transportation and last rites	Rs.25,000/-

Counsel for the appellant would argue that Hon'ble the Supreme Court in **Kishan Gopal and another Vs. Lala and others, 2013(4) RCR (Civil) 276**, has awarded compensation to the tune of Rs.5,00,000/- in regard to death of a child aged 10 years. In the said case, indeed the child was 10 years old but Hon'ble the Supreme Court has held that he was helping his father in agricultural operations and accordingly annual loss of income was assessed at Rs.30,000/- per month. In the case at hand, the child is a girl who was 13 years old and there is nothing on record to suggest that she was engaged in a commercial activity. In the given circumstances, the appellant cannot derive advantage to his contention from the judgment in **Kishan Gopal's case** (supra). On the contrary, Hon'ble the Supreme Court in **Puttamma and others vs K.L. Narayana Reddy and another, 2014(1) R.C.R. (Civil) 443** has held that if the child is less than 15 years of age, income is to be assessed at the rate

of Rs.15,000/- per annum and a multiplier of 15 is to be applied. The Tribunal has allowed an amount of Rs.1,25,000/- under conventional heads which is more than what can be allowed in the light of judgment of Hon’ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270.** In this view of the matter, I do not find any reason to interfere in assessment made by the Tribunal.

In view of what has been discussed hereinabove, finding no merit, the appeal fails and is accordingly dismissed in limine. No order as to costs.

MARCH 15, 2019		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no