

**RA-CR-299-CII-2016 (O&M) in
FAO No. 8368 of 2014 (O&M)**

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

**RA-CR-299-CII-2016 (O&M) in
FAO No. 8368 of 2014 (O&M)
Date of Decision: October 24 2019**

Ramesh Chand @ Ramesh Kumar and another

....

Applicants/appellants(s)

Versus

Roshan Lal and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ashok Kaushik, Advocate
for the applicant/appellants.

Mr. Sanjeev Kodan, Advocate
for respondent no.3-insurance company.

LISA GILL, J. (oral)

Prayer in this application is for review of order dated 31.05.2016 vide which FAO-8368-2014 was decided. Compensation of Rs.2,83,600/- awarded by the learned Tribunal has been enhanced to Rs.6,21,800/- vide order dated 31.05.2016. Prayer in this revision application is for grant of increment towards future prospects in addition to the enhanced compensation afforded by this Court.

Learned counsel for the applicant-appellants submits that the present application has been filed as increment towards future prospects in

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terms of the judgment of the Hon'ble Supreme Court in ***Rajesh and others v. Rajbir Singh and others (2013) 9 SCC 54***, which was holding the ground that at the time of the passing of order dated 31.05.2016, has not been afforded. Learned counsel for the applicant further contends that in any case, at this stage, the claimants are entitled to increment @ 40% in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680** as the deceased was 25 years old at the time of the accident. It is further submitted that the claimants have no objection in case the compensation awarded under the conventional heads is re-worked in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680**. Learned counsel for the applicant vehemently argues that manifest injustice shall be caused to the applicants if they are not afforded the said benefit which is in any case now available to similarly situated persons. It is further submitted that delay of 117 days in filing the review application is not due to any negligence on the part of the applicant and neither is it intentional. It is thus, prayed that delay in filing the review application be condoned and the review application be allowed as prayed for.

Learned counsel for the insurance company refutes the above said arguments. It is argued that apart from the fact that there is no reasonable explanation coming forth for condonation of delay in filing the review application, the said application itself is bereft of any merit. The

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judgment of the Hon'ble Supreme Court in ***Rajesh and others v. Rajbir Singh and others (2013) 9 SCC 54***, at the time of passing of order dated 31.05.2016 vide which the appeal was decided, was pending consideration before a larger Bench of the Hon'ble Supreme Court itself. The applicants, it is contended cannot seek to reopen the entire controversy and re-agitate their case in a review application. It is, thus, prayed that this application be dismissed.

I have heard learned counsel for the parties.

Perusal of the order dated 31.05.2016 reveals that the arguments raised by learned counsel for the appellants were duly noticed and dealt with. Compensation awarded to the claimants was enhanced as mentioned above. Learned counsel for the applicant is unable to deny that the arguments as raised on behalf the applicants by way of this application seek the awarded compensation to be re-worked. It is settled position that review is not for re-hearing of the original matter. Grant of alternate or additional relief while reviewing an order is not permissible. The Hon'ble Supreme Court in ***Kamlesh Verma Vs. Mayawati and others 2013(8) SCC 320***, has observed as under:-

“16. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

(A) When the review will be maintainable:-

- (i) Discovery of new and important matter or evident which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;
- (ii) Mistake or error apparent on the face of the record;
- (iii) Any other sufficient reason.

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The words “any other sufficient reason” has been interpreted in ***Chhajju Ram V. Neki, AIR 1922 PC 112*** and approved by this Court in ***Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius & Ors., (1955)1 SCR 520***, to mean “a reason sufficient on grounds at least analogous to those specified in the rule”. The same principles have been reiterated in ***Union of India vs. sandur Manganese & Iron Ores Ltd. & Ors., 2013(3) Recent Apex Judgments (R.A.J.) 436: JT 2013(8) SC 275***.

(B) When the review will not be maintainable :-

- (i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.
- (ii) Minor mistakes of inconsequential import.
- (iii) Review proceedings cannot be equated with the original hearing of the case.
- (iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.
- (v) A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.
- (vi) The mere possibility of two view on the subject cannot be a ground for review.
- (vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.
- (viii) The appreciation of evidence on record is fully within the domain of the appellate Court, it cannot be permitted to be advanced in the review petition.
- (ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negated”

It is specifically held by the Hon'ble Supreme Court that it is not open to the Court to re-appreciate the controversy and reach a different conclusion even if possible. It is a matter of record that the decision of the Hon'ble Supreme Court in ***Rajesh and others*** (supra) was pending reconsideration. The judgment of the larger Bench in ***National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680*** has been rendered subsequent to passing of order dated 31.05.2016, even after

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the filing of the present application. There is no merit in the argument that the increment on account of future prospects were awarded in the case of ***Rajesh and others*** (supra), therefore, it was incumbent upon the Court to have granted the same. This argument is hence rejected. I am fully conscious of the fact that the present is a matter arising out of a beneficial piece of legislation, but accepting the arguments raised by learned counsel for the applicant shall indeed unlock the flood gates to reopen the controversies which stand decided. Learned counsel for the applicant is unable to point out any mistake or error apparent on the face of it or any other sufficient reason, which calls for review of order dated 31.05.2016.

No other argument has been addressed.

There is a delay of 117 days in filing of this review application. As the review application has been adjudicated upon on merits, decision on the application for condonation of delay is rendered academic.

Application is disposed of accordingly.

Review application is accordingly dismissed with no order as to costs.

October 24, 2019.
Sunil

**(LISA GILL)
JUDGE**

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