IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1303 of 2019(O&M)

Date of decision: 15.2.2019

United India Insurance Co. Ltd. …..Appellant

VERSUS

Raj Kumari @ Raj Rani and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Raj Kumar Bashamboo, Advocate for the appellant.

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REKHA MITTAL, J.(Oral)

CM No.3904-CII of 2019

Prayer in this application is for condoning delay of 18 days in re-filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Mr. Raj Kumar Bashamboo, Advocate, the application is allowed. Delay of 18 days in re-filing the appeal stands condoned.

Disposed of accordingly.

CM No.3905-CII of 2019

Prayer in this application is for condoning delay of 26 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Anil Mehan, Deputy Manager, United India Insurance Co.

Ltd., the application is allowed. Delay of 26 days in filing the appeal stands condoned.

Disposed of accordingly.

FAO No.1303 of 2019

The present appeal directs challenge against award dated 07.08.2018 passed by the Motor Accidents Claims Tribunal, S.A.S. Nagar, (Mohali) whereby compensation has been assessed on account of death of Ashu aged about 19 years.

Counsel for the insurance company would inform that the appeal has been preferred to assail only quantum of compensation particularly income of the deceased assessed by the Tribunal. It is argued that the Tribunal has assessed income of the deceased at Rs.10,000/- per month in absence of any evidence with regard to income. It is further argued that even if the deceased is treated as a skilled person as he is stated to be running a cycle repair shop, his monthly income on the basis of minimum wage fixed by the State of Punjab at the relevant time cannot be more than Rs.7500/- per month.

The plea of the claimants is that deceased was doing the work of cycle repair for the past two years. The claimants examined Krishan Kumar, Member Panchayat village Meerpur PW-2 who supported version of the claimants that deceased was running a cycle repair shop in the premises owned by his father for the past two years. He had very good work and was expert in cycle repair. There is no rebuttal to evidence adduced by the claimants with regard to deceased doing the work of cycle repair in the property of his father. In such cases, it is difficult to expect from the person to have maintained any account/documents that could be produced before the Court. Taking into consideration the evidence on record coupled with minimum wage of a skilled worker, income of the deceased is assessed at Rs.8500/- per month. The Tribunal has rightly allowed addition of 40% for future prospects, deduction to the extent of 50% and multiplier of 18 for computing loss of dependency. In this manner, loss of dependency comes to Rs.12,85,200/- [Rs.18,36,000/- (Rs.8500 x 12 x 18) + Rs.7,34,400/- (40% addition towards future prospects) – Rs.12,85,200/- (50% deduction towards personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is correct and affirmed.

In view of the above, total compensation comes to Rs.13,15,200/- and compensation awarded by the Tribunal is reduced to the extent of Rs.5,69,200/- (Rs.15,42,000/- - Rs.13,15,200/-).

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

Before parting with this order, it is pertinent to mention that compensation assessed by the Tribunal has been reduced without notice to the claimants. They would be at liberty to file an application if they have any grievance to express. It is further clarified that in case the claimants file an appeal for enhancement, any observation made for disposing of appeal filed by the insurance company would not cause prejudice to their right.

FEBRUARY 15, 2019 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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