

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

F.A.O No. 5386 of 2012 (O&M)

Date of decision:- 13.08.2015

Smt. Inderjeet Kaur and another

...Appellants

Versus

Sandeep Kumar and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Ashwani Arora, Advocate
for the appellants.

Mr. Rajbir Singh, Advocate for
Mr. Sanjeev Goyal, Advocate
for respondent No. 3.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI J.

There is a delay of 382 days in preferring the appeal. The delay, according to the counsel for the appellants, was on account of the fact that the claimants were not aware about the limitation and could not contact their counsel after getting the amount of compensation by the learned Tribunal. The application for condonation of delay is stoutly contested by the insurance company. I find this to be not convincing but I am prepared to condone the delay since the issue related to compensation for death of a young male

member aged about 26 years of age leaving behind his old aged parents. I find no reason to deny the right of consideration on merits. The delay in filing the appeal is condoned, in view of the judgment passed by this Court in a case of **Pushpa Rani vs. Gurbant Singh** **passed in FAO No.1150 of 2011**, decided on 07.05.2013.

In the present case, on 07.09.2008, the son of the claimants/appellants was coming to Chandigarh from Delhi in a Three Wheeler bearing registration No. DL-11-LJ-4896 driven by Ravi Shanker at a slow speed. When they reached near village Narayangarh Majra on Shahbad to Saha road, a truck bearing registration No. HR-69-0214 came at a very fast speed from the opposite side and hit into the three wheeler by coming to the wrong side of the road. After causing the accident, respondent No. 1 left the spot after leaving the truck. The injured were taken to Civil Hospital, Ambala where they succumbed to the injuries and F.I.R No. 99 dated 7.9.2008 under Sections 279/304-A was registered in this regard at P.S. Industrial Area Saha, District Ambala.

The claimants have alleged that their son was 26 years at the time of his death and was running a shop under the name and style of Digital Zone at Sector 22, Chandigarh and he had employed four persons and had also paying huge rent and Rs.5300/- as installment of the car purchased by him. His monthly income was

Rs.60,000/-.

For assessing his income, the learned Tribunal has taken into consideration his income tax return prior to his death, which reflected his income as Rs.1,26,123/- and on this income, 50% cut was imposed and his income comes to Rs.63,500/- per annum. Keeping in view the age of the appellants 52 years and 59 years, the multiplier of 9 is applied and the compensation comes to Rs. 5,71,500/-. Rs.5,000/- was awarded towards funeral expenses and Rs.5,000/- towards loss to the estate of the deceased. The total amount of compensation comes to Rs.5,81,500/-.

The compensation has to be re-assessed in view of the latest judgment of '***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77***', '***Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54***' and '***Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(3) Recent Apex Judgments 459, Asha Verman and others vs. Maharaj Singh and others, 2015(2) RCR (Civil) 520 and Kalpanaraj and others v. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193***'. Accordingly, the compensation re-assessed as under:-

Sr. No.	Heads	Calculations
(i)	Salary	Rs.10584/- per month
(ii)	50% of (i) above to be added as future prospects=	Rs.10584+Rs.5292=Rs.15,876 per month
(iii)	1/2 of (ii) deducted as personal expenses of the deceased=	Rs.15876-Rs.7938=Rs7938 per month
(iv)	Compensation after multiplier of 17 is applied	Rs.7938 X 12 X 17= Rs.16,19,352/-
(v)	Loss of love and affection to parents	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vi)	Funeral charges	Rs.25,000/-
	Total Compensation awarded	Rs.18,44,352/-
	Enhanced amount of compensation	Rs.18,44,352-Rs.5,81,500 =Rs.12,62,852/-

The enhanced amount of compensation of Rs.12,62,852/- shall be payable within a period of two months from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in a case of ***Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others, 2015(1) SCC 539.*** Remaining conditions of disbursal of amount shall remain unaltered.

6. Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

August 13, 2015

G Arora

(**RITU BAHRI**)
JUDGE