

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-3106-2013 (O&M)
Date of Decision: April 23, 2015

Smt. Pooja Jaswal and another
...Appellants
Versus
Santokh Lal and others
...Respondents

CORAM: HON’BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. H.S. Thiara, Advocate,
for the appellants.

Ms. Amandip Kaur, Advocate,
for respondent No. 1.

Mr. Piyush Bansal, DAG, Punjab,
for respondent Nos. 2, 3 and 3A.

Respondent No. 4 already proceeded against
ex parte.

1.	Whether Reporters of local papers may be allowed to see the judgment?	✓
2.	To be referred to the Reporters or not?	✓
3.	Whether the judgment should be reported in the Digest?	

NARESH KUMAR SANGHI, J (Oral)

CM-13523-CII-2013:

Prayer in this civil miscellaneous application is for
condonation of delay of 302 days in filing the appeal.

After hearing learned counsel for the parties and going
through the contents of the application, which is duly supported by

an affidavit, the present application is allowed and delay of 302 days in filing the appeal is condoned.

FAO-3106-2013:

The present appeal has been filed by Smt. Pooja Jaswal, widow, and Keshav Jaswal, minor son, of Rakesh Kumar (since deceased), who met with an accident, challenging the award dated 18.4.2012, passed by learned Motor Accidents Claims Tribunal, Hoshiarpur (for brevity, 'the Tribunal'), whereby an award of Rs.5,58,168/- (Rupees five lacs fifty-eight thousand one hundred and sixty-eight) alongwith interest @ 6% per annum from the date of filing of the petition till realization was passed.

Learned counsel for the appellants has confined his arguments on three issues only - (i) learned Tribunal had awarded only Rs. 2,000/- (Rupees two thousand) against the settled norm of Rs.25,000/- (Rupees twenty-five thousand) for 'funeral expenses'; (ii) Rs. 5,000/- (Rupees five thousand) were awarded for 'consortium' against the settled norm of Rs.1,00,000/- (Rupees one lac); and (iii) interest @ 6% was on lower side.

Learned counsel for the respondents submit that learned Tribunal has already awarded just compensation, therefore, there is no scope for further enhancement of the award.

I have heard learned counsel for the parties and with

their able assistance gone through the material available on record.

Since the award passed by learned Tribunal has not been challenged by the driver, the owner and the insurance company and the appeal has been filed by the claimants for enhancement of the award, therefore, this Court does not deem it necessary to deal with the issues regarding the factum of accident and negligence etc. It would be sufficient if the arguments raised by learned counsel for the appellants for enhancement of the amount awarded under three heads, as narrated by him are discussed.

Rakesh Kumar (since deceased) was 32 years of age at the time of his death. He was a Technician and was getting salary of Rs. 4,306/- (Rupees four thousand three hundred and six) per month. The claim petition was filed by his widow and minor son. Father of Rakesh Kumar (since deceased) was arrayed as respondent No. 4. The present appeal has not been filed by father of Rakesh Kumar. Only his (Rakesh Kumar) widow and minor son are before this Court.

After completion of the evidence and hearing learned counsel for the parties, learned Tribunal awarded a sum of Rs.5,58,168/- (Rupees five lacs fifty-eight thousand one hundred

and sixty-eight) alongwith interest @ 6% per annum from the date of filing of the petition till realization. The widow was held entitled to 50% of the claim amount plus consortium, minor son was held entitled to 30% of the claim amount, while respondent No. 4 (father of the deceased) was held entitled to 20% of the claim amount.

There appears to be substance in the submission of learned counsel for the appellants when he submitted that a meagre sum of Rs. 2,000/- (Rupees two thousand) against the settled norm of Rs. 25,000/- (Rupees twenty-five thousand) has been awarded for funeral expenses. There also appears to be substance in his submission when he pointed out that against the settled norm of Rs. 1,00,000/- (Rupees one lac), a sum of Rs. 5,000/- (Rupees five thousand) has been awarded for consortium to the widow of Rakesh Kumar (since deceased). This Court also find force in the last submission of learned counsel for the appellants that interest @ 6% was also on lower side.

Hon'ble the Supreme Court in the matters of **Neeta and others v. Divisional Manager, Maharashtra State Road Transport Corporation**, 2015 ACJ 598, and **Jitendra Khim Shankar Trivedi v. Kasam Daud Kumbhar**, 2015 ACJ 708, has awarded interest @ 9% per annum from the date of presentation of claim petition and till realization.

In view of totality of the facts and circumstances of the case, this Court holds that the appellant/claimants are entitled to Rs. 25,000/- (Rupees twenty-five thousand) for 'funeral expenses' and Smt. Pooja Jawal, widow of Rakesh Kumar (since deceased) is further entitled to Rs. 1,00,000/- (Rupees one lac) under the head 'consortium'. Since learned Tribunal has already awarded Rs. 2,000/- (Rupees two thousand) for funeral expenses, therefore, Rs. 23,000/- (Rupees twenty-three thousand) is enhanced on account of said head and Rs. 95,000/- (Rupees ninety-five thousand) is enhanced under the head 'consortium'. The appellant/claimants shall also be entitled to interest @ 9% per annum from the date of filing of the petition till realization. The enhanced amount alongwith interest shall be paid to the appellant/claimants and respondent No. 4 (father of the deceased) as per the share specified by learned Tribunal in para No. 13 of its award. The amount already paid by the respondents and received by the appellant/claimants and respondent No. 4 (father of the deceased) shall be deducted from enhanced amount.

Appeal is partly allowed.

(NARESH KUMAR SANGHI)
JUDGE

April 23, 2015
Pkapoor