IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1671-2014 (O&M)
Date of decision: 14.9.2015

Santosh Kumari and others

...Appellants

Versus

Ravinder Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Vipul Dharmani, Advocate for the appellants

Mrs.Vandana Malhotra, Advocate
for respondent No.3- Insurance Company

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SNEH PRASHAR, J.

CM-5844-CII-2014

The instant application under Section 5 of the Limitation Act is for condonation of delay of 212 days in filing the appeal.

After hearing the learned counsel for the parties and the reasons recorded in the application, the present application is allowed. Delay of 212 days in filing the appeal is hereby condoned subject to all just exceptions.

CM-5845-CII-2014

Allowed as prayed for.

<u>FAO-1671-2014</u>

By filing the instant appeal, the claimants-appellants have sought enhancement of the compensation amount awarded by the learned Motor Accidents Claims Tribunal, Ropar (in short 'the Tribunal'), vide award dated 9.4.2013, on account of death of Raman Kumar in a motor vehicular accident on 23.7.2011.

Vide order dated 8.1.2015, on the concurrence of learned counsel for both the parties, service of respondents No.1 and 2, driver and owner of the offending vehicle respectively was dispensed with.

The submissions made by Mr.Vipul Dharmani, Counsel for the appellants and Mrs.Vandana Malhotra, Advocate appearing for respondent No.3- Insurance Company have been heard.

Learned counsel appearing for the appellants submitted that learned Tribunal erred in assessing the income of the deceased Rs.18,000/- per month after deducting the income tax without any basis. The deceased was employed as Driver with CRPF and his gross salary was Rs.20,182/- per month. He further submitted that the deceased left behind widow and three children and therefore, in view of the law laid down by the Hon'ble Supreme Court in **<u>Smt. Sarla Verma and others vs DTC and anther 2009(3) RCR (Civil) 77</u>**, the dependency should have been taken at 3/4th and only 1/4th

amount out of the income of the deceased should have been deducted towards his personal expenses. Also no amount has been awarded towards loss of consortium and loss of love, care and guidance to the children. The amount awarded towards funeral expenses is also on the lower side.

On the other hand, learned counsel representing the Insurance Company resisted the prayer of the claimants-appellants and submitted that just and appropriate compensation has been awarded by learned Tribunal.

There is no dispute regarding the accidental death of Raman Kumar, son of appellant No.1. As per the salary certificate Ex.P2, age of the deceased was 41 years at the time of his death. His salary certificate is Ex.P1 according to which his gross salary was Rs.20,182/- per month and after deducting GPF, GIS and RPS, he was getting a sum of Rs.16,902/- per month. The certificate does not mention regarding deduction towards income tax. Learned Tribunal after considering all aspects i.e. his gross salary as well as the amount adding in the salary which was for personal expenses and the income which falls under the income tax range, has assessed the income Rs.18,000/- per month, which seems appropriate.

The untimely death of Raman Kumar was a great shock to his family. He left behind widowed mother and three minor children. Keeping in view the law laid down in **Sarla Verma's case (supra)**, the deduction towards personal expenses of the deceased should have been taken 1/4th instead of 1/3rd. Perusal of the award shows that no amount has been awarded towards loss of love and affection to the mother and loss of love, care and guidance to the children. The amount awarded towards last rites also appears to be on the lower side. In the considered opinion of this Court and in the interest of justice, the compensation under the following heads is allowed/ enhanced:-

S.No.	Heads	From	To
1.	Last rites expenses enhanced	Rs.5,000/-	Rs.25,000/-
2.	Loss of love, care and guidance payable to the minor children in equal share		Rs.60,000/-
4.	Loss of love and affection payable to the mother		Rs.20,000/-

Accordingly, the total compensation comes to Rs.30,53,400/- i.e. Rs.18000 (monthly income) + 30% (future prospects) x 3/4 (dependency) x 12 x 14 (multiplier) + 20,000 (loss of love and affection to the mother) + 60,000/- (loss love, care and guidance to the children in equal share) + 25,000 (last rites expenses including already awarded. The balance enhanced compensation of Rs.4,27,600/- (30,53,400- 26,25,800/- already awarded) shall be paid to the claimants-appellants, in the manner indicated in this judgment as well as in the award passed by learned Tribunal, within a period of 45 days from the date of receipt of the certified copy of the judgment, failing which, the claimants-appellants shall be entitled to interest @ 7.5% per annum from the date of the filing of the appeal till its realisation.

Resultantly, the present appeal is partly allowed and the impugned Award is modified to the above extent.

14.9.2015 **(SNEH PRASHAR)**
gsv **JUDGE**