

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

FAO No.5416 of 2014
Date of Decision: January 30, 2015

Suman and others ...Appellants

Versus

Sandeep and others ...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Ramender Chauhan, Advocate
for the appellants.

FATEH DEEP SINGH, J.

C.M. No.15082-CII of 2014

Heard on application for condonation of delay in
filing of appeal.

In view of the grounds mentioned in the
application for condonation of delay duly supported by an affidavit
of the appellant and in the light of settled position that a litigant
cannot be denied access to justice on hyper technical grounds and
in the interest of justice taking a lenient view, delay of 10 days in
filing the appeal stands condoned.

CM stands disposed off.

FAO No.5416 of 2014

Inspite of having been awarded a sum of
₹6,68,000/- as compensation along with interest @ 6% per annum,
the claimants have still challenged the award dated 13.11.2013 of
the learned Motor Accident Claims Tribunal, Bhiwani pertaining

to death of deceased Rajesh Kumar. It was on 6.1.2012 deceased who was working as a Plant Master in Amit Steel Industry, Bhiwani while coming on a motorcycle owned by one Pardeep met with an accident near the fields of Ex. Sarpanch, Ombir around 5.p.m. when LPT 709 vehicle bearing registration No.RJ-18 GA-4528 being driven in a rash and negligent manner by respondent Sandeep struck against it resulting in his death. The mode of the accident was never assailed off by the respondents and, thus, has attained finality.

The deceased as per the observations made on issue No.2 in the impugned award is claimed to be an agriculturist as well as working as Plant Master, earning ₹23000/- per month as per the statement of widow, Suman PW1. However, as has been highlighted, the learned Tribunal appreciated the fact that in her cross-examination she admitted that she does not have any proof regarding income and earnings of the deceased. Even the deposition of PW3 Anand Kumar, Accountant of the employer had only proved attendance register and that the deceased was getting ₹3000/- per month. The learned Tribunal exercising its judicial powers had taken the income of the deceased to be ₹4800/- per month which is quite reasonable, though, the learned counsel for the appellant has sought to argue that the same is highly unrealistic and is on the lower side. Since the onus was on the claimants and their failure to do so impels this Court to hold it so. The learned Tribunal has deducted 1/4th of these earnings and had taken the dependency to the tune of ₹3600/- per month and, thus, the annual dependency to the tune of ₹43,200/-. The proven stand of the claimants that the deceased was 40 years of age

which is elicited from the post mortem report Ex.P2, the multiplier of 15 has been applied and after granting a sum of ₹20,000/- under the conventional heads the learned Tribunal has awarded the total compensation of ₹6,68,000/- to the claimants.

It has been rightly argued on behalf of the appellants that this amount is certainly on the lower side, however having regard to the fact that a sum of ₹6,68,000/- has been awarded to a person taken to be a daily wager due to the lack of evidence. The overall amount irrespective of the calculations under the various heads which may be not appropriate and mathematically correct but taking the total compensation to be just and fair does not calls for any interference.

Thus, the instant appeal being without any merit stands dismissed in limine.

(FATEH DEEP SINGH)
JUDGE

January 30, 2015

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