IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3843 of 2004 (O&M)
Decided on: 03.11.2016

Urmila and another

....Appellants

Versus

Krishan Singh Sharma and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Ashok Kumar Jindal, Advocate
for Mr. Sanjay Mittal, Advocate
for the appellants.

Mr. J.P. Sharma, Advocate
for respondents No.1 and 2.

Mr. Sandeep Suri, Advocate
for respondent No.3.

REKHA MITTAL, J. (Oral)

CM No.15396-CII of 2004

Prayer in this application is for condoning delay of 09 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Devender Kumar, the applicant-appellant, the application is allowed and delay of 09 days in filing the appeal stands condoned.

FAO No.3843 of 2004

The unfortunate parents of Anup @ Annu are in appeal seeking enhancement of compensation in regard to death of the victim in a motor vehicular accident that took place on 15.03.2003.

The learned Tribunal assessed income of the deceased at Rs.24,000/- per annum, deducted 1/3rd for personal expenses and adopted a multiplier of 13 to compute loss of dependency at Rs.2,08,000/- but eventually awarded an amount of Rs.2,00,000/- towards compensation.

Counsel for the appellants has submitted that the deceased was the only hope of his parents in their old age. It is further argued that the learned Tribunal has not awarded any compensation under the conventional heads. It is further submitted that notional income of the deceased is liable to be enhanced and there should not be any deduction out of notional income. The appropriate multiplier would be 15 in the light of judgment of Hon'ble the Supreme Court of India ***"Reshma Kumari and others vs Madan Mohan and another",*** **2013(9) SCC 65.**

Counsel for the insurance company has submitted that the appellants may be allowed some reasonable amount of compensation under conventional heads. Counsel for respondents No.1 and 2 has echoed the arguments advanced by counsel for respondent No.3.

I have heard counsel for the parties and perused the paperbook particularly the award passed by the learned Tribunal.

Hon'ble the Supreme Court of India in ***"Krishan Gopal and another vs Lala and others",*** **2013 ACJ 2594**, has assessed notional income of the deceased, aged about 10 years died in a road accident on 19.07.1992 at Rs.30,000/- per annum. The accident in the present case occurred on 15.03.2003 and the price index has changed (upward) from 1992 to 2001. Taking a clue from the judgment in ***Krishan Gopal and another's case (supra)*** coupled with age of the victim, it would be in the fitness of things if notional income of the deceased is assessed at Rs.30,000/- per annum. As the deceased was less than 15 years of age, appropriate multiplier would be 15. However, no deduction in the circumstances of the present case, would be permissible from the notional income. As a result, loss of dependency comes to ***Rs.4,50,000/-*** (Rs.30,000/- x 15).

The mother of the child is awarded an amount of ***Rs.75,000/-*** for loss of love and affection. The claimants shall be entitled to an amount of ***Rs.25,000/-*** for expenses on funeral. The total compensation is Rs.5,50,000/- and the enhanced award is ***Rs.3,50,000/-*** (Rs.5,50,000/- – Rs.2,00,000/-). The enhanced compensation shall carry interest @ 7.5% per annum from the date of petition till realization, payable exclusively to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

03.11.2016 **(REKHA MITTAL)**
yakub **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable: Yes/No