

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

**FAO No.2824 of 2013 (O&M)
Decided on: 08.11.2016**

Maya Devi and others

....Appellants

Versus

Anil and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Nipun Vashisht, Advocate
for the appellants.

Mr. Deepender Ahlawat, Advocate
for respondent No.1.

Mr. Abhishek Yadav, Advocate
for respondents No.2 to 7.

Mr. Ankit Jindal, Advocate
for Ms. Suman Jain, Advocate
for respondent No.8.

Respondent No.9 already *ex parte*.

REKHA MITTAL, J.

CM No.12718-CII of 2013

Prayer in this application is for condoning delay of 35 days
in filing the appeal.

Heard.

In view of averments made in the application supported by
an affidavit of Maya Devi, the applicant-appellant, the application is
allowed and delay of 35 days in filing the appeal stands condoned.

FAO No.2824 of 2013

Maya Devi and others, the claimants are in appeal seeking
enhancement of compensation in regard to death of Devender in a

motor vehicular accident that took place on 31.12.2009 but the victim succumbed to injuries on 10.04.2010.

The learned Tribunal assessed loss of dependency by taking into consideration monthly income at Rs.15,893/-, 50% addition towards future prospects and multiplier of 17 and deduction to the extent of 1/4th towards personal and living expenses of the deceased, calculated at Rs.21,17,520/-. In addition, the claimants have been awarded Rs.5,000/- each for funeral expenses and loss of consortium besides Rs.4,41,153/- for expenses on medical treatment making total compensation to Rs.25,73,673/- payable with interest @ 9 % per annum from the date of petition till realization.

Counsel for the appellants has submitted that the deceased was working in the Central Reserve Police Force, Gurgaon (in short 'CRPF') as a Constable. The claimants examined HC Nem Chand, Group Centre CRPF, Gurgaon PW8 to prove salary of the deceased in April, 2010. The witness proved the salary statement Ex.PW8/A and as per the salary for the month of April, 2010, gross salary is Rs.20,503/- and loss of dependency is liable to be assessed by taking gross salary at that rate. It is further submitted that compensation awarded under conventional heads needs re-look and enhancement.

Counsel for the insurance company, on the contrary, has supported the award with the submissions that adequate compensation has been awarded by the Tribunal. Counsel representing the other respondents have echoed the arguments advanced by counsel for the insurance company.

I have heard counsel for the parties, perused the paperbook

and the records of the Tribunal.

It is undisputed position of the case that the deceased was working as a Constable in CRPF. One of the representatives of the employer appeared in the witness-box and proved salary certificate Ex.PW8/A. As per the salary certificate, the gross salary of the deceased in April, 2010 was Rs.20,503/- per month out of which an amount of Rs.3,000/- for GPF and Rs.30/- for CGEGIS was being deducted, therefore, there was no statutory deduction made out of the salary of which the benefit is not available to the claimants. Under these circumstances, I find merit in contentions of the appellants that loss of dependency is to be assessed by taking into consideration gross salary at Rs.20,503/-. In view of the above, loss of dependency comes to **Rs.47,05,438/-** (Rs.20,503/- x 12 x 17) = Rs.41,82,612/- + Rs.20,91,306/- (50% for future prospects) = Rs.62,73,918/- – Rs.15,68,480/- (1/4th deduction towards personal expenses).

Under conventional heads, widow of the deceased is awarded an amount of **Rs.1,00,000/-** for consortium. The minor children are awarded an amount of **Rs.1,50,000/-** in equal share and **Rs.50,000/-** to mother of the deceased for loss of love and affection. The claimants shall be entitled to an amount of **Rs.25,000/- each** for funeral expenses and loss of estate. The total compensation comes to Rs.50,55,440/- and the enhanced compensation is **Rs.24,81,765/-** (Rs.50,55,438/- – Rs.25,73,673/-) payable with interest @ 7.5% per annum from the date of petition till realization exclusively to children of the deceased.

The enhanced compensation payable to children shall be

deposited in the shape of fixed deposit receipts in a nationalized bank for a period of three years or till they attain the age of majority whichever is later. The interest accrued on the amount of FDRs shall be payable to mother of the children for meeting expenses on their education and living.

Disposed of accordingly.

08.11.2016
yakub

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No