IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1423 of 2014(O&M)
Date of Decision: 25.05.2016

Saranjit and others **.....Appellants**

versus

Pargat Singh and others **..... Respondents**

CORAM: Hon'ble Mr. Justice Ajay Tewari

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Present: Mr.Munish Kumar Garg, Advocate for the appellants.

Mr.Sansar Kundu, Advocate for respondent No.1.

Mr.Sant Lal Barwala, Advocate for respondent No.2.

Mr.Om Pal Sharma, Advocate for respondent No.3.

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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?

Ajay Tewari, J. (Oral):

CM No. 4925-CII-2014

This is an application for condonation of delay of 2548 days in refiling the present appeal.

Learned counsel for the appellants has argued that after the appeal was originally some some dispute had arisen between the appellants and their then counsel as a result of which there was a delay of 2548 days in refiling and now because of this dispute the counsel was changed. In my opinion it will be in the interest of justice to condone the delay subject to the condition that in the event of any enhancement the appellants would not be entitled to any interest for the period of 2548 days.

CM stands allowed.

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FAO-1423- 2014

This is an appeal for enhancement of compensation filed by the LRs of deceased Sardara Singh, a 32 years old person and a mason by profession, who died in an accident caused due to the rash and negligent driving of a fourwheeler resulting into grievous injuries and thereby causing his death. The Tribunal considering him a skilled workman and taking his daily income to be Rs. 80/- per day and Rs. 2400/- month and after deducting his personal expenses, took his dependency at Rs. 1600/- per month i.e. Rs. 19,200-/ per annum and applied a multiplier of 15 and thereby computed his loss-cum-dependency to be Rs. 2,88,000/-. Besides that an amount of Rs. 10,000/- was also granted towards last rites. Being dissatisfied with the compensation amount, the claimants have come up before this Court in appeal.

Learned counsel for the appellants has argued that there was a widow and four minor children and the deduction of 1/3rd was highly excessive and that the deduction could have only been 1/4$^{th.}$ Learned counsel for respondent No.3 is not in a position to deny this. Consequently deduction is reduced to 1/4th.

Learned counsel for the appellants further states that an amount of Rs. 10,000/-has been awarded on account of expenses on last rites which is highly inadequate. I agree with him and award a further sum of Rs. 10,000/- on this account.

Learned counsel for the appellants has further argued that nothing has been awarded on account of loss of consortium and loss of love and affection. In this regard learned counsel has relied upon **Rajesh and others v. Rajbir Singh and others** reported as 2013(9) SCC 54 where the

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Hon'ble Supreme Court had granted a total amount of Rs.1 lac towards loss of consortium to the widow and Rs. 1 lac to three minor children for loss of care and guidance. Learned counsel has further relied upon **Vimal Kanwar and others v. Kishore Dan and others** reported as 2013(3) Recent Apex Judgments 446 wherein the Hon'ble Supreme Court awarded a sum of Rs.1 lac to the widow and a sum of Rs. 2 lac to the minor girl on account of loss of love and affection, and another sum of Rs.1 lac towards loss of consortium to the widow.

Consequently I grant a sum of Rs. 1 lac to the appellant No.1-widow on account of loss of consortium and Rs. 1 lac on account of loss of love and affection. I further grant a sum of Rs. . 1 lac each to the minor daughters i.e. appellants No. 2, 3 and 4 and Rs. 50,000/- to appellant No.5, minor son on account of loss of love and affection and loss of care and guidance. The enhanced amount would carry interest at the rate of 8% p.a. from the date of filing of application till realisation except for the period of delay. Apart from the individual amounts the entire enhanced compensation amount would fall to the share of appellant No.1 i.e. widow and shall be put in a fixed deposit in her name for a period a three years and she would be entitled to monthly interest thereon. The share of the minors would be apportioned and managed as per the award of the Tribunal.

With the modification in the award, this appeal is allowed to the above extent.

(AJAY TEWARI)
JUDGE

May 25, 2016
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