

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

**FAO No.1003 of 2015 (O&M)
Decided on: 05.09.2016**

Roshni and another

....Appellants

Versus

Chandan Singh and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Ram Pal Verma, Advocate for the appellants.

None for respondent No.2.

Mr. Gopal Mittal, Advocate for respondent No.3.

REKHA MITTAL, J.

CM No.2768-CII of 2015

Prayer in this application is for condoning delay of 229 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Monika, one of the applicants-appellants, the application is allowed and delay of 229 days in filing the appeal stands condoned but subject to the condition that the applicants/appellants shall not claim interest for the period of delay, if the appeal is allowed.

MAIN CASE

The claimants are in appeal seeking enhancement of compensation in regard to death of Surja @ Suraj Bhan in a motor vehicular accident that took place on 20.08.2012.

The learned Tribunal assessed income of the deceased at Rs.5,400/- per month, deducted 1/3rd towards personal expenses and adopted a multiplier of 9 to compute loss of dependency to the tune of

Rs.3,88,800/-. In addition, an amount of Rs.15,000/- each has been awarded for funeral and transportation expenses and loss of estate and Rs.25,000/- for loss of consortium making total compensation to the tune of Rs.4,43,800/-.

Counsel for the appellants has contended that the deceased was a mason, therefore, his income is liable to be enhanced. Another submission made is that the Tribunal has not allowed benefit of increase in income for future prospects to the extent of 15% and the compensation awarded under conventional heads needs re-look and enhancement.

Counsel for the insurance company has supported the award with the submission that the matter with regard to grant of future prospects is pending consideration before a Larger Bench of Hon'ble the Supreme Court of India ***“National Insurance Company Limited Vs Pushpa and others”*** vide ***SLP No.8058/2014***.

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

There is no material on record to substantiate testimony of PW3 and PW4 that the deceased was earning Rs.12,000/- per month. The learned Tribunal has assessed notional income of the deceased on the basis of minimum wage available to a skilled worker in the year 2012. Counsel for the appellants has not disputed assessment of income at Rs.5,400/- per month on the basis of minimum wage. That being so, I do not find any reason to interfere in assessment of income of the deceased.

So far as the plea with regard to grant of benefit of

increase in income for future prospects, the mere fact that the matter is pending before a Larger Bench of Hon'ble the Supreme Court of India is not sufficient to deny the said benefit till the judgment in **“Rajesh and others Vs. Rajbir Singh and others”**, 2013(3) R.C.R. (Civil) 170 is varied or set-aside. In view of age of the deceased, the appellants are entitled to benefit of future prospects to the extent of 15%. In this manner, loss of dependency comes to **Rs.4,47,200/-** (Rs.3,88,800/- + Rs. 58,320/- rounding off to Rs.58,400/-).

The widow of the deceased shall be entitled to an amount of **Rs.1,00,000/-** for consortium. The appellants are allowed an amount of **Rs. 25,000/- each** for funeral expenses and loss of estate. The total compensation payable to the appellants comes to Rs.5,97,200/-. The enhanced compensation is calculated at **Rs.1,53,400/-** (Rs.5,97,200/- – Rs.4,43,800/-) payable with interest @ 7.5% per annum from the date of filing of the petition till realization, except that the insurance company shall not be liable to pay interest for a period of 229 days pertaining to delay in filing the appeal. The enhanced compensation shall be payable exclusively to the widow, to be deposited in the shape of FDR in a nationalized bank for a period of three years.

The appeal is partly allowed in the aforesaid terms.

05.09.2016
yakub

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No