IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1842-2014 (O&M)
Date of decision: 9.2.2016

Anil Kumar and others

...Appellants

Versus

Rattan Lal and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Navkesh Singh Goraya, Advocate for the appellants

Mr.Neeraj Khanna, Advocate for
Mr.Ravinder Arora, Advocate
for the Insurance Company

****

SNEH PRASHAR, J.

CM 6418-19-CII-2014

The present applications under Section 5 of the Limitation Act have been filed for condonation of delay of 497 days in refiling and 132 days in filing the appeal.

Reply filed on behalf of respondent No.3-Insurance Company is taken on record.

Having heard learned counsel for the parties and considering the reasons enumerated in the applications, delay of 497 days in re-filing and 132 days in filing the appeal is hereby condoned subject to all just exceptions.

Applications stand disposed of accordingly.

Main Appeal

The present appeal has been filed by the claimants-appellants seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Patiala vide award dated 16.12.2011, on account of death of Lalit Parshad @ Lalta Parshad, father of the appellants.

The submissions made by learned counsel for the appellants as well as counsel for respondent No.3- Insurance Company have been heard and record perused.

It is submitted on behalf of the appellants that there being five claimants- dependents of the deceased, the deduction towards his own living expenses should have been 1/4th of his income. He further submitted that the appellants have not been compensated on account of loss of love and affection, whereas a meager amount of Rs.5000/- was awarded under the head of funeral expenses.

Perusal of the record indicates that deceased was a pensioner. Learned Tribunal after considering all aspects of the matter, assessed his income as Rs.10,000/- per month. As per his service record, on the date of accident, he was 61 years old and in view of **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**, the multiplier of 7 to the amount of dependency was rightly applied. As regards the contention of learned counsel for the appellants to deduct 1/4th instead of 1/2 of the income of the deceased towards his own maintenance and living expenses, there appears no merit in the same.

The deceased was the father of the appellants. Though, the claimants-appellants are son and daughters, but they are all major and self dependent. As such, the deceased would not be spending more than 1/2 of his income upon the claimant and his grand children out of the pension amount being received by him.

Perusal of the award shows that no amount has been awarded towards loss of love and affection to the claimants-appellants. The claimants are married son and daughters. The eldest amongst them (claimant No.2 Smt. Urmila Devi daughter) was 40 years old when the petition was filed. Her other sisters and brother, though are younger to her but are all self dependents. Yet having lost the father, they have lost selfless love and affection showered by a parent. Therefore, the interest of justice, a sum of Rs.One lac is allowed to the claimants-appellants for loss of love and affection and the amount of funeral expenses is enhanced from Rs.5,000/- to Rs.25,000/-. Ordered accordingly.

Accordingly, the enhanced amount of compensation i.e. Rs.1,20,000/- shall be paid to the claimants in equal shares within two months from the date of the receipt of the certified copy of this judgment, failing which, it shall carry interest @ 7.5% per annum from the date of filing of the appeal till its realisation.

The present appeal is partly allowed and the award is modified to the above extent.

9.2.2016 **(SNEH PRASHAR)**
gsv **JUDGE**