

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

FAO-1414-2015(O&M)
Date of decision : 09.05.2016

Naresh Kumar and others

... Appellants

Versus

Kaptan and others

... Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: None for the appellants.

Mr. R.K. Saini, Advocate
for Mr. Arun Yadav, Advocate
for respondent Nos.1 & 2.

Ms. Vandana Malhotra, Advocate
for respondent No.3.

JITENDRA CHAUHAN, J.(ORAL)

CM-4021-CII-2015

Prayer in this application is for condonation of delay of 20 days in filing the appeal.

After hearing learned counsel for the parties and in view of averments made in the application and submissions made by learned counsel for the applicants which are duly supported by an affidavit, the application is allowed and delay of 20 days in filing the appeal is condoned.

FAO-1414-2015

The present appeal has been preferred by the claimant-appellants, seeking enhancement of the amount of compensation awarded vide impugned award dated 09.10.2014, passed by learned Motor Accidents Claims Tribunal, Rewari (for short, 'the Tribunal').

It is averred in the grounds of appeal that deceased Vikas Yadav had been earning an amount of ₹15,000/- per month by working as a dentor in a welding shop. However, the learned Tribunal has wrongly assessed the income of the deceased at ₹7,200/- per month whereas he had been earning ₹15,000/- per month. It is further contended that an amount of ₹10,000/- awarded towards loss of love and affection is on lower side.

On the other hand, the learned counsel for the respondents has vehemently opposed the present appeal.

I have heard the learned counsel for the respondents and perused the record.

In the absence of any documentary evidence on record, with regard to the income of the deceased, this Court is of the opinion that the income of the deceased has been rightly assessed by the Tribunal keeping in view the minimum wages of a skilled labour prevalent in the year 2013. The deduction was also rightly made. However, the amount of ₹10,000/- awarded towards love and affection is inadequate and deserved

to be enhanced.

In view of the dictum of law laid down in ***Rajesh and others Vs. Rajbir and others 2013 (3) RCR (Civil) 170***, the claimants are held entitled to the enhanced compensation of ₹40,000/- towards loss of love and affection for the claimants to be shared equally, as indicated above, over and above the amount already awarded by the learned Tribunal, which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which shall be also entitled to interest @ 7.5%, from the date of filing the present appeal, till its realization.

With the aforesaid modification in the impugned award, the present appeal is partly allowed.

(JITENDRA CHAUHAN)
JUDGE

May 09, 2016.
Davinder Kumar