IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

-.-

FAO 3771 of 2013 (O&M)
Date of decision: 11.07.2016

Palwinder Kaur and others .... *Appellants*

Versus

Bhagwant Singh and others ....*Respondents*

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

-.-

Present: Mr. Ishan Cooner, Advocate
for the appellants

None for respondents No. 1 and 2

Mr. Pardeep Goyal, Advocate
for respondent No. 3

-.-

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

CM 15293-CII of 2013

Prayer in this application is for condoning delay of 298 days in filing the appeal.

In view of averments made in the application supported by an affidavit of one of the appellants namely Palwinder Kaur and arguments advanced by counsel for the parties, the application is allowed and delay of 298 days in filing the appeal stands condoned, subject to condition that in case, the appellants succeed in appeal, they will forgo interest for the delayed period.

With the consent of learned counsel for the parties, the main appeal is taken up today for final disposal.

Main case

The claimants/appellants are in appeal seeking enhancement of compensation assessed by the Motor Accident Claims Tribunal, Patiala (for brevity, 'the Tribunal') vide award dated 18.05.2012 in regard to death of Dharminder Singh in a motor vehicular accident that took place on 19.04.2010 due to rash and negligent driving of vehicle bearing registration No. PB-11E-5877 by its driver Bhagwant Singh-respondent No. 1.

The learned Tribunal assessed income of the deceased at Rs.6,000.00 per month, allowed deduction to the extent of 1/3rd for personal expenses, adopted multiplier of 17 and computed loss of dependency to the tune of Rs.8,16,000.00. Further, compensation under conventional heads has been awarded @ Rs.5,000/- each towards expenses of funeral and loss of consortium.

Counsel for the appellants contends that the learned Tribunal has wrongly assessed income of the deceased at Rs.6,000/- per month whereas he used to earn Rs.20,000.00 per month from agriculture and working as a Driver. The deduction of 1/3rd for personal expenses is also wrong. It is further argued that 50% increase in income for future prospects and increase under conventional heads is required in view of judgments of Hon'ble the Supreme Court ***Rajesh and others v. Rajbir Singh and others (2013) 9 SCC 54*** and ***Vimal Kanwar and others vs. Kishore Dan and others 2013 (2) RCR (Civil) 945***. The last submission made by counsel is that the Tribunal has wrongly awarded interest @ 6% per annum from the date of filing of the petition instead of 18% per annum from the date of accident itself.

Counsel for the contesting respondent No. 3 i.e. Insurance Company has supported the award passed by the learned Tribunal.

I have heard counsel for the parties and perused the records.

The claimants did not produce any document showing that the deceased was working as a driver. Even no documentary evidence qua income of the deceased has been produced on record. Rather, the widow has deposed that the driving licence of her husband was lost in the accident. As such, the Tribunal has rightly assessed income of the deceased at Rs.6,000.00. Further, in view of number of dependents, the Tribunal has rightly deducted 1/3rd income towards personal expenses of the deceased. However, the claimants would be entitled to benefit of increase in income for future prospects to the extent of 50% in view of enunciation laid down in *Rajesh's* case (supra). Thus, the loss of dependency comes to Rs.8,16,000.00 + Rs.4,08,000.00 (50% future prospects) = Rs.12,24,000.00. Palwinder Kaur, widow of the deceased shall be entitled to an amount of Rs.1,00,000.00 towards loss of consortium. The minor child and mother of the deceased shall be entitled to an amount of Rs.1,00,000.00 and Rs.50,000.00 respectively towards loss of love and affection. The appellants/claimants shall also be entitled to an amount of Rs.25,000.00 towards expenses of funeral and last rites. The total compensation payable to the claimants comes to Rs.14,99,000.00 (Rs.12,24,000.00 + Rs.1,00,000.00 + Rs.1,00,000.00 + Rs.50,000.00 + Rs.25,000.00). The enhanced compensation is calculated at Rs.6,73,000.00 (Rs.14,99,000.00 – Rs.8,26,000.00) which shall carry interest @ 7.5% from the date of filing of petition till award and then from the date of filing of appeal till realization (period of delay in filing appeal is excluded in terms of order allowing application under Section 5 of the Limitation Act).

The enhanced compensation shall be payable to widow of the deceased except the amount awarded to the minor claimant and mother of the deceased towards loss of love and affection payable according to their entitlement discussed hereinbefore. The compensation awarded to the minor shall be deposited in the shape of FDR in a nationalized bank till he attains the age of majority. The amount of interest accruing on the FDR shall be payable to mother of the minor to meet expenses on his education and living. The share of widow and mother shall be deposited in a fixed deposit for a period of one year.

Disposed of accordingly.

(Rekha Mittal)
Judge

11.07.2016
mohan bimbra