IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.3777 of 2013 (O&M).
Date of Decision: 05.04.2016.

Neeraj Sunil and another ....Appellants.

VERSUS

Pawan Kumar Chadha and others ....Respondents.

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CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Surinder Sharma, Advocate for the appellants.

Mr. Gopal Mittal, Advocate for respondent No.4

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SNEH PRASHAR, J.

CM-15346-CII-2013

The present application under Section 5 of the Limitation Act has been filed for condonation of delay of 150 days in filing the appeal.

For the reasons enumerated in the application, the same is allowed. Delay of 150 days in filing the appeal is hereby condoned subject to all just exceptions.

FAO-3777-2013

By way of this appeal, appellants-Neeraj Sunil and another seek enhancement of compensation awarded to them by learned Motor Accident Claims Tribunal, Jalandhar (for short, "the Tribunal") vide the award dated 05.11.2012 passed in MACT Case No.6 of 2011 on account of death of Reeta (mother of appellant No.1 and wife of appellant No.2) who lost her life in a vehicular accident on 30.03.2010.

The submissions made by Mr. Surinder Sharma, learned counsel for the appellants and Mr. Gopal Mittal, learned counsel for respondent No.4 have been heard.

Learned counsel for the appellants argued that the deceased by running a beauty parlour was earning Rs.15,000/- per month but learned Tribunal wrongly assessed her income as Rs.3000/- per month and then arbitrarily deducted 1/3rd of the income towards personal and living expenses of the deceased without considering the fact that the deceased was a married lady and her husband and daughter were the claimants and no deduction towards personal and living expenses of the deceased was called for while taking the value of services of the deceased as a housewife. To support his argument, he relied upon ***Islam vs. Narender Jeet Arora & another, 2013 ACJ 453.*** Learned counsel further contended that the Tribunal applied the multiplier of '14' whereas multiplier of '17' is applicable. The amount awarded for loss of estate, funeral expenses and loss of consortium is on the lower side. Also no amount was awarded to the appellants for loss of love and affection.

No substantive and reliable evidence could be produced by the appellants to prove the qualification and income of the deceased. Deceased Reeta was taken to be a housewife by learned Tribunal. In ***Jitendra Khimshankar Trivedi and others vs. Kasam Daud Kumbhar and others,***

2015(1) R.C.R. (Civil) 828 recognizing the services of a home maker in terms of money the income of the deceased who was a housewife was taken as Rs.3000/- per month. Deducting 1/3rd towards personal and living expenses of the deceased, the contribution to the family was calculated at Rs.2000/- per month. The deceased being 22 years old the multiplier adopted was '18'.

In the case in hand, learned Tribunal assessed the income of the deceased as Rs.3000/- per month which is appropriate. The deceased was survived by husband Sunil Kumar aged 43 years and daughter Neeraj Sunil aged 16 years. Following the law laid down in Jitendra Khimshankar Trivedi and others' case (supra), 1/3rd deduction made from the income of the deceased towards her personal and living expenses by learned Tribunal needs no modification. The deceased being 42 years aged at the time of accident, multiplier of '14' was rightly applied by learned Tribunal.

However, the amount awarded towards loss of estate, funeral expenses and loss of consortium is on the lower side. An amount of Rs.25,000/- is awarded to the appellants as funeral expenses. The amount of Rs.10,000/- given as loss of estate and funeral expenses will be considered as loss of estate. The amount of Rs.10,000/- awarded as loss of consortium to appellant-claimant No.2 is enhanced to Rs.1,00,000/-. A further amount of Rs.1,00,000/- is awarded to appellant-claimant No.1 for loss of love and affection.

Accordingly, the appeal filed by the appellants-claimants is partly allowed and the award dated 05.11.2012 passed by learned Tribunal is modified. The enhanced compensation of Rs.2,15,000/- shall be deposited by the respondents within 45 days from the date of receipt of certified copy of this judgment failing which the appellants-claimants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing the appeal till realization. The amount of compensation will be disbursed to the appellants in terms of shares/conditions incorporated in the award of the Tribunal.

(SNEH PRASHAR)
JUDGE

05.04.2016.
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