IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4634-2013 (O&M)
Date of decision:4.4.2016

Dayawanti and others
...Appellants

Versus

Sachin Sindhu and others
...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Pankaj Midha, Advocate for the appellants

Mr.Rajneesh Malhotra, Advocate
for respondent No.3- Insurance Company

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SNEH PRASHAR, J.

CM-19628-CII-2013

The instant application under Section 5 of the Limitation Act has been filed for condonation of delay of 59 days in filing the appeal.

Despite sufficient opportunities availed, no reply has been filed on behalf of the respondents.

For the reasons enumerated in the application and the submissions made on behalf of the parties, the delay of 59 days in filing the appeal is hereby condoned subject to all just exceptions and the application stands disposed of accordingly.

FAO-4634-2013 (O&M)

The appellants, who are parents and minor son of deceased Sanjay, who lost his life in a motor accident, filed the present appeal seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Jind, (for short 'the Tribunal') vide award dated 1.2.2013.

The submissions made by Mr.Pankaj Midha, Advocate representing the appellants and Mr.Rajneesh Malhotra, Advocate for the respondent- Insurance Company have been considered and record perused.

Learned counsel for the appellants raised three fold arguments (i) the income of Rs.6000/- per month assessed by learned Tribunal is on the lower side; (ii) no amount computing future prospects was added to the actual monthly income of the deceased and (iii) the amount awarded under the conventional heads is inadequate.

On the other hand, learned counsel for respondents 3-Insurance Company resisted the prayer of the appellants and submitted that since the deceased was not in permanent job, no future prospects should be awarded and the multiplier of 18 applied by learned Tribunal being on the higher side, should be corrected as the deceased was 27/28 years aged at the time of accident.

Admittedly, Sanjay died due to the injuries suffered by him in a motor vehicular accident. There being no substantive evidence of income and treating the deceased to be a casual workman, learned Tribunal assessed the income of the deceased as Rs.6000/- per month, which appears appropriate.

Perusal of the award shows that no amount was added to the actual monthly income of the deceased computing future prospects. Following the law laid down by Hon'ble Supreme Court in **Rajesh and others vs. Rajbir Singh and others (2013) 9 SCC 54**, since the deceased was 27/28 years old, there had to be an addition of 50% to the actual income of the deceased on account of loss of future prospects. But at the same time, the multiplier of 18 applied by learned Tribunal is not as per the law laid down in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**. Since the deceased falls in the age group of 26-30 years, the multiplier of 17 has to be applied.

The claimants are the parents and minor son. The wife had already died. The deceased was the sole bread earner of the family and his untimely death caused a great shock to the family members. Following the ratio of **Rajesh and others vs. Rajbir Singh and others (2013) 9 SCC 54,** on account of loss of love, care and guidance to the child, a sum of Rs.One lac is allowed including the amount already awarded. Further a sum of Rs.25,000/- is allowed being expenditure on transportation and funeral expenses etc. including the amount already awarded and Rs.50,000/- is allowed on account of loss of love and affection to the mother.

Accordingly, the total compensation comes to Rs.14,04,000/- i.e. Rs.6000/- (monthly income) + 50% (future prospects)-1/3rd (deduction towards personal and living expenses of the deceased) x 12 x 17 (multiplier) + Rs.1,80,000 /- (under the conventional heads including the amount already awarded). The enhanced amount of Rs.5,05,000/- (14,04,000-8,99,000 already awarded) shall be paid to the claimants-appellants within two months from the date of receipt of the certified copy of this judgment, failing which, the same shall carry interest @ 7.5 % per annum from the date of filing of the appeal till its realisation.

In view of the above, the present appeal is partly allowed and the award is modified to the above extent.

4.4.2016 **(SNEH PRASHAR)**
gsv **JUDGE**