

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

-.-

FAO 2628 of 2015 (O&M)

Date of decision: 16.09.2016

Rajwinder Kaur and others

.....Appellants

Versus

Dilawar Singh and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Neeraj Khanna, Advocate
for the appellants

Ms Kaavya Jariyal, Advocate for
Mr. B S Jaswal, Advocate
for respondents No. 1 to 3

Mr. Pradeep Kumar, Advocate
for respondent No. 4

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Rekha Mittal, J. (Oral)

CM 7916 CII of 2015

Prayer in this application is for condoning delay of 411 days in re-filing the appeal.

In view of the averments made in the application supported by an affidavit of counsel for the appellants and arguments advanced by counsel for the parties, the application is allowed and delay of 411 days in re-filing the appeal stands condoned.

Main case

The claimants are in appeal seeking enhancement of compensation in regard to death of Suraj Singh in a motor vehicular accident that took place on 30.04.2012 due to rash and negligent driving of

Car bearing No. PB 63-B-0986.

The learned Tribunal assessed income of the deceased at Rs.6,000/- per month, deducted 1/4th towards personal expenses, adopted multiplier of 17 and computed loss of dependency to the tune of Rs.9,18,000.00.

Counsel for the appellants would contend that the Tribunal has not allowed benefit of increase in income for future prospects and as the deceased was 28 years old, the same would be 50% of his assessed income. It is further argued that compensation awarded under conventional heads needs re-look and enhancement. Another submission made by counsel is that the learned Tribunal has allowed interest @ 6% per annum that also needs enhancement.

Counsel for the insurance company has supported the award with the submissions that the claimants are not entitled to benefit of future prospects in the circumstances that the matter is pending consideration before a Larger Bench of the Apex Court in view of reference made in ***National Insurance Company Limited v. Pushpa*** (SLP (c) No. 16735 of 2014, decided on 02.07.2014).

I have heard counsel for the parties and perused the paper book particularly the award impugned.

The claim petition was preferred by Rajwinder Kaur (widow), Abhey Partap Singh and Fateh Singh (minor sons) and Ninder Kaur (mother of deceased Suraj Singh). The learned Tribunal has rightly allowed deduction to the extent of 1/4th by taking into consideration number of dependents to be four. The claimants are entitled to benefit of increase in income for future prospects to the extent of 50% and they cannot be denied the said benefit merely because a reference is pending before a Larger

Bench till the judgment in *Rajesh and others v. Rajbir Singh and others (2013) 9 SCC 54* is varied or set aside. In this manner, loss of dependency comes to Rs.13,77,000.00 (Rs.6,000.00+Rs.3,000.00 (50% future prospects) x12x17-Rs.4,59,000.00 being $\frac{1}{4}^{\text{th}}$ deduction).

Under conventional heads, Rajwinder Kaur (widow) is awarded an amount of Rs.1,00,000.00 for loss of consortium. The minor children are awarded an amount of Rs.1,50,000.00 in equal share and mother is allowed Rs.50,000.00 for loss of love and affection. The claimants are awarded an amount of Rs.25,000.00 each for loss of estate and expenses on funeral. The total compensation payable to the claimants comes to Rs.17,27,000.00 (Rs.13,77,000.00 + Rs.1,00,000.00 + Rs.1,50,000.00 + Rs.50,000.00 + Rs.25,000.00 + Rs.25,000.00). The enhanced compensation comes to Rs.7,89,000.00 (Rs.17,27,000.00-Rs.9,38,000.00). The compensation awarded by the Tribunal as well as additional compensation allowed by this Court shall be payable with interest @ 7.5% per annum from the date of petition till realization, payable to the widow and children in equal share. The compensation payable to the widow shall be deposited in a FDR for a period of three years and that to the minors in FDR (s) till they attain the age of majority. The interest accrued on FDR (s) shall be payable to the mother for meeting expenses of their education and living.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

16.09.2016
mohan bimbra

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No