

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

FAO No.4997 of 2013 (O&M)

Date of decision : 01.08.2016

Pinki and others

.....Appellants

Versus

Suresh Pal and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Amit Singla, Advocate for appellants.

Mr. Sameer Tewari, Advocate for respondent No.1.

Respondent No.2 proceeded against *ex parte*.

Mr. R.K. Bashamboo, Advocate for respondent No.3.

DARSHAN SINGH, J.

CM-21202-CII-2013

There is delay of 28 days in filing the present appeal. The appellants have filed an application under Section 5 of the Limitation Act read with Section 151 of the Code of Civil Procedure, 1908 (for short the “CPC”) for condonation of delay.

Heard on the application.

In view of the reasons mentioned in the application, same is allowed and the delay of 28 days in filing the present appeal is hereby condoned.

CM-21203-CII-2013

There is delay of 402 days in re-filing the present appeal. The

appellants have filed an application under Rule 5(1) Chapter-1 Part-A Vol. (5) of the High Court Rules and Orders read with Section 151 of the Code of Civil Procedure, 1908 for condonation of delay.

Heard on the application.

In view of the reasons mentioned in the application, same is allowed and the delay of 402 days in re-filing the present appeal is hereby condoned.

FAO No.4997 of 2013

The present appeal has been preferred against the award dated 25.02.2012 passed by the learned Motor Accidents Claims Tribunal, Hisar (hereinafter called the “Tribunal”) vide which the appellants-claimants have been awarded compensation to the tune of Rs.7,85,000/- on account of death of Sajjan Kumar in the motor vehicular accident which took place on 27.12.2010.

2. The present appeal has been preferred by the appellants-claimants for enhancement of the amount of compensation.

3. Learned counsel for the appellant-claimants contended that the deceased was a young man of 25 years of age. The learned Tribunal has determined the income of the deceased to be Rs.5000/- but no future prospects were awarded towards the income of the deceased. Very less amount has been awarded to his widow towards loss of consortium and no amount has been awarded to the children towards loss of love and affection. The amount awarded for funeral expenses is also inadequate. Thus, he

pleaded that just compensation has not been awarded to the appellants-claimants.

4. On the other hand, Mr. R.K. Bashamboo, Advocate, learned counsel for respondent-Insurance Company contended that the deceased was not entitled for any future prospects as he was not holding any permanent job earning the regular increments. Moreover, the matter regarding admissibility of future prospects has been referred to the larger Bench of the Hon'ble Apex Court. He further contended that the learned Tribunal has granted compensation under all the relevant heads. Thus, he contended that just compensation has been awarded to the appellants-claimants.

5. I have duly considered the aforesaid contentions.

6. On appreciation of the evidence, the learned Tribunal by considering the deceased to be labourer has determined his income to be Rs.5000/- per month. He was 27 years of age at the time of the death. Deceased Sajjan Kumar was a young man. His income was bound to increase with the passage of time as it is a fact that the income of nobody remains stagnant for whole of the life. Even the wages of the labourers increase with the passage of time and that is why the government revises the minimum wages of the casual/semi skilled/skilled labourers periodically. So, certainly the future prospects should have been awarded towards the income of the deceased. Mere this fact that the matter has been referred to the larger bench of the Hon'ble Apex Court in view of some contradictory

judgments, is no ground to decline the addition of future prospects in deserving cases. Thus, in view of the age of deceased Sajjan Kumar, 50% of his income is required to be added to the income of the deceased towards future prospects. The total income comes to Rs.7500/- per month i.e. Rs.90,000/- per annum. The present claim petition has been filed by the widow, minor daughter and parents of the deceased. So, 1/4th of his income shall be deducted towards his personal and living expenses. The remainder comes to Rs.67,500/-. As the deceased was 27 years of age, the multiplier of 17 shall be applicable. The loss of dependency comes to Rs.11,47,500/-.

7. In addition to the aforesaid amount, petitioner No.1 the widow of deceased shall be entitled to Rs.1,00,000/- towards loss of consortium. Appellant-claimant Manjit, minor daughter of deceased shall also be entitled to Rs.1,00,000/- towards loss of love, care and guidance. The parents of deceased shall also be entitled to Rs.1,00,000/- on account of loss of love and affection of their son. The claimants shall also be entitled to Rs.25,000/- towards funeral expenses and Rs.5000/- towards loss to estate. The total amount of compensation comes to Rs.14,77,500/-.

8. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to appellants-claimants is enhanced to Rs.14,77,500/- from Rs.7,85,000/- as awarded by the Tribunal. The appellants-claimants shall be entitled to interest on the enhanced amount from the date of filing the petition till realisation at the rate as determined by the learned Tribunal, except the

period of delay in re-filing the appeal. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

01.08.2016

sunil yadav

(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No