

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

**FAO No.2904 of 2015 (O&M)
Date of decision: 26.05.2016.**

Kuldeep Kaur and others

...Appellants

Versus

Mukesh Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr.D.S.Sidhu, Advocate
for the appellants.

Mr. Saurabh Kapoor, Advocate
for respondent No.1.

Ms. Vandana Malhotra, Advocate
for respondent No.2

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JITENDRA CHAUHAN, J.

CM No.8832-CII-2015

The present application under Section 5 of the Limitation Act is for condoning the delay of 48 days in filing the appeal.

Learned counsel for the respondents state that they have no objection, in case, the delay is condoned.

In view of the circumstances mentioned in the application, which is duly supported by an affidavit, delay of 48 days in the filing the appeal is condoned.

CM stands disposed of.

Main case:-

The present appeal has been preferred by the claimant-appellants, seeking enhancement of amount of compensation awarded vide impugned award dated 09.10.2014, passed by learned Motor Accidents Claims Tribunal, Fatehgarh Sahib (for short, 'the Tribunal').

2. Learned counsel for the appellants contends that the deceased was 21 years of age at the time of accident. The learned Tribunal has erred in taking the income as a labourer, whereas, the deceased was a carpenter at the time of accident. He refers to the statement of PW-3 Jaswinder Singh, and contends that the Tribunal has erred in not taking the income as a skilled labourer despite the testimony of PW-3, who has categorically stated that he was a carpenter. Beyond the statement of PW3, there is no evidence on record to support the assertion made by learned counsel for the appellants. Accordingly, this Court feels that there is no perversity in recording the findings of the learned Tribunal.

3. The learned counsel for the appellants further submits that nothing has been awarded towards future prospects as well as for loss of love and affection to the mother of the deceased.

4. On the other hand, the learned counsel for the respondent-Insurance Company has vehemently argued that the amount of compensation awarded by the learned Tribunal is just

and appropriate and does not call for any interference.

5. I have heard learned counsel for the parties and perused the case file.

6. Considering the facts that the deceased was hale and hearty, therefore, there is no reason to deny the appellants to the benefit of future prospects. Accordingly, the appellants are entitled to the benefit of 50% increase towards future prospects in view of the law laid down in ***Rajesh and others Vs. Rajbir Singh and others, (2013) 9 SCC 54.***

7. In this way, an amount of compensation under the head 'loss of dependency, would come to ₹5,000/- + 50% X 12 X ½ X 18 = ₹8,10,000/-, as against the amount of ₹5,40,000/-, awarded by the learned Tribunal.

8. Furthermore, a sum of ₹1,00,000/-, is awarded to the appellant-mother of the deceased, on account of loss of love and affection, if she is alive, on her furnishing affidavit.

9. In view of the above, the claimant-appellants are held entitled to the enhanced compensation of ₹3,70,000/- [₹2,70,000/- (enhancement towards loss of dependency) + ₹1,00,000/- (loss of love and affection payable to mother of the deceased only)], as indicated above, over and above the amount already awarded by the learned Tribunal, which shall be payable within a period of 45

days from the date of receipt of a certified copy of this judgment,

failing which, they shall also be entitled to interest @ 7.5% per annum, from the date of filing the present appeal, till its realization.

10. However, the disbursement of amount of compensation towards 'future prospects' shall be subject to furnishing requisite indemnity bonds by the claimants as the question of admissibility of future prospects to daily wagers/self employed persons is pending adjudication before Hon'ble the Supreme Court in SLP No.16735 of 2014.

11. With the aforesaid modification in the impugned award, the present appeal is partly allowed.

26.05.2016

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**(JITENDRA CHAUHAN)
JUDGE**