IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5715 of 2013(O&M)
Date of Decision-11.08.2016

Raj Rani Verma and another ... Appellants
Versus
Hem Raj and others ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ishan Singh Cooner, Advocate for the appellants.

Mr. A.S. Sidhu, Advocate with
Mr. Binat Sharma, Advocate for respondent No.2.

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__RAJ MOHAN SINGH, J.__

__CM No.23910-CII of 2013__

Prayer in this application is for condonation of delay of 47 days in filing the appeal. Notice of this application was given to the respondents. Learned counsel for respondent No.2 has opposed the application without filing any reply.

For the reasons mentioned in the application, delay of 47 days in filing the appeal is condoned.

Application stands disposed of.

__FAO No.5715 of 2013__

[1]. Claimants-appellants along with others filed claim petition under Section 163-A of the Motor Vehicles Act (for short the 'Act') for grant of compensation to the tune of Rs.15,00,000/-

along with interest @18% per annum from the date of accident till final payment on account of death of Deepak Kumar son of the appellants in a vehicular accident on 09.06.2012.

[2]. Vipin Kumar and Deepak Kumar were going from Saha to Ambala Cantt on motorcycle. Deepka Kumar was the pillion rider. When they reached near Khanna Company in the area of village Khuda Khurd on Ambala-Jagadhri Road then by chance their motorcycle slipped on the road and they fell down on the road along with the motorcycle. Deepak Kumar died on the spot while Vipin Kumar also died when he was taken to the hospital. Accident was witnessed by Baljit Ram who was working as a Chowkidar at Khanna Company. Postmortem was conducted on 09.06.2012. Deceased Deepak Kumar was 27 years of age and was enjoying good health. He was the only bread winner of the family. The claimants claimed that he was earning Rs.40,000/- per annum i.e. Rs.3300/- per month by doing the labour work. All the claimants were dependent upon him. They were not having other source of income. The claimants incurred amount of Rs.20,000/- on transportation, funeral expenses and last rites of deceased Deepak Kumar. The claim to the tune of Rs.15,00,000/- was made as per provisions under Section 163-A of the Act.

[3]. The Tribunal after appraisal of the pleadings of the parties and evidence held that deceased Deepak Kumar died due

to involvement of motorcycle on which he was riding as a pillion rider. Tribunal assessed monthly income of deceased Deepak Kumar to be Rs.3000/-. After applying 50% towards self expenses, his monthly dependency was calculated to be Rs.1500/- per month and Rs.18,000/- per annum. A multiplier of 11 was applied keeping in view the age of mother and the total amount was calculated to be Rs.1,98,000/- (18,000x11). After adding a sum of Rs.20,000/- towards funeral expenses, loss of estate and consortium, the total amount to the tune of Rs.2,18,000/- was assessed. This amount was ordered to be paid along with interest @ 7.5 % per annum from the date of filing of the claim petition till final realization.

[4]. I have heard learned counsel for the parties.

[5]. Initially, claimants were six in number. Sisters of deceased namely Aarti and Jyoti were aged of 23 and 21 years respectively. Brothers of deceased were also major. Tribunal has only considered the claim of the mother. The grievance of the appellants is that as per Schedule under Section 163-A of the Act, deduction of 1/3rd has to be applied keeping in view the cap of Rs.40,000/- as annual income of the deceased. After calculating the amount, a multiplier of 18 has to be applied keeping in view the age of the deceased and this multiplier should not be applied on the basis of age of the claimant in view of ratio laid down in ***<u>Amrit Bhanu Shali and others Vs. National</u>***

Insurance Company Ltd and others, 2012 (4) RCR (Civil) 343. As per Schedule under Section 163-A of the Act, there is a cap of income to the tune of Rs.40,000/- to which 1/3rd of the income has to be deducted towards self expenses. In this way, annual income of the deceased comes out to be Rs.26,666/- per annum (40,000-13,333). Keeping in view the age of the deceased and as per 2nd Schedule of the Act, a multiplier of 18 has to be applied. After applying the multiplier of 18, the total amount would come out to be Rs.4,79,988/- (26,666 x 18). The amount of Rs.20,000/- awarded by the Tribunal towards the conventional heads i.e. funeral expenses, loss of estate and consortium are just and proper. After adding Rs.20,000/- awarded by the Tribunal towards conventional heads i.e. funeral expenses, loss of estate and consortium, the total amount comes out to be Rs.4,99,988/-.

[6]. In this way, an amount of Rs.2,81,988/- (4,99,988-2,18,000) stands enhanced in addition to the amount already awarded by the Tribunal. The enhanced amount shall carry interest @ 7.5 % from the date of filing of the claim petition till realization of the amount.

[7]. In view of aforesaid modification, the present appeal stands disposed of.

11.08.2016 **(RAJ MOHAN SINGH)**

Prince **JUDGE**