

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

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FAO 6327 of 2013 (O&M)

Date of decision: 11.07.2016

Mej Kaur and others

..... *Appellants*

Versus

Bhagwant Singh and others

.....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Ishan Cooner, Advocate
for the appellants

None for respondents No. 1 and 2

Mr. Pardeep Goyal, Advocate
for respondent No. 3

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

CM 25886-CII of 2013

Prayer in this application is for condoning delay of 413 days in filing the appeal.

In view of averments made in the application supported by an affidavit of one of the appellants namely Mej Kaur and arguments advanced by counsel for the parties, the application is allowed and delay of 413 days in filing the appeal stands condoned, subject to condition that in case, the appellants succeed in appeal, they will forgo interest for the delayed period.

With the consent of learned counsel for the parties, main appeal

is taken up today for final disposal.

Main case

The claimants/appellants are in appeal seeking enhancement of compensation assessed by the Motor Accident Claims Tribunal, Patiala (for brevity, 'the Tribunal') vide award dated 18.05.2012 in regard to death of Jeet Singh in a motor vehicular accident that took place on 19.04.2010 due to rash and negligent driving of vehicle bearing registration No. PB-11E-5877 by its driver Bhagwant Singh-respondent No. 1.

The learned Tribunal assessed income of the deceased at Rs.4,500.00 per month, allowed deduction to the extent of 1/5th for personal expenses, adopted multiplier of 15 and computed loss of dependency to the tune of Rs.6,48,000.00. Further, compensation under conventional heads has been awarded @ Rs.5,000/- each towards expenses of funeral and loss of consortium.

Counsel for the appellants contends that the learned Tribunal wrongly assessed income of the deceased at Rs.4,500/- per month whereas the deceased used to earn Rs.6,000.00 per month. The deduction of 1/5th for personal expenses is also wrong. It is further argued that 50% increase in income for future prospects and increase under conventional heads is required in view of judgments of Hon'ble the Supreme Court ***Rajesh and others v. Rajbir Singh and others (2013) 9 SCC 54*** and ***Vimal Kanwar and others vs. Kishore Dan and others 2013 (2) RCR (Civil) 945***. The last submission made by counsel is that the learned Tribunal has wrongly awarded interest @ 6% per annum from the date of filing of the petition instead of 18% per annum from the date of accident itself.

Counsel for the contesting respondent No. 3 (Insurance Company) has supported the award passed by the learned Tribunal.

I have heard counsel for the parties and perused the records.

The Tribunal has rightly assessed income of the deceased at Rs.4,500/- per month by considering that he was working as a casual labourer. Further, in view of number of dependents, the Tribunal has rightly deducted 1/5th income towards personal expenses of the deceased. However, the claimants would be entitled to benefit of increase in income for future prospects to the extent of 50% in view of enunciation laid down in *Rajesh's* case (supra). Thus, loss of dependency comes to Rs.6,48,000 + Rs.3,24,000.00 (50% future prospects) = Rs.9,72,000.00. Mej Kaur, widow of the deceased shall be entitled to an amount of Rs.1,00,000.00 towards loss of consortium. The children (four) of the deceased shall be entitled to an amount of Rs.3,00,000.00 towards loss of love and affection in equal share. The appellants shall also be entitled to an amount of Rs.25,000.00 towards expenses of funeral and last rites. The total amount of compensation payable to the claimants comes to Rs.13,97,000.00 (Rs.9,72,000.00 + Rs.1,00,000.00 + Rs.3,00,000.00 + Rs.25,000.00). The enhanced compensation is calculated at Rs.7,39,000.00 (Rs.13,97,000.00 – Rs.6,58,000.00) which shall carry interest @ 7.5% from the date of filing of petition till award and then from the date of filing of appeal till realization (period of delay in filing appeal is excluded in terms of order allowing application under Section 5 of the Limitation Act).

The enhanced compensation shall be payable to widow of the deceased except the amount awarded to minor claimants towards loss of

love and affection payable according to their entitlement discussed hereinbefore. The compensation awarded to the minor shall be deposited in the shape of FDR's in a nationalized bank till they attain the age of majority. The amount of interest accruing on the FDR's shall be payable to mother of the minor to meet expenses on their education and living. The share of widow shall be deposited in a fixed deposit for a period of one year.

Disposed of accordingly.

(Rekha Mittal)
Judge

11.07.2016
mohan bimbura