

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

FAO No.6030 of 2014 (O&M)

Decided on: 15.09.2016

Saroj and others

....Appellants

Versus

Rajender Singh and others

...Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Amit Singla, Advocate for the appellants.

Mr. Gopal Mittal, Advocate for respondent No.3.

REKHA MITTAL, J.

CM No.16634-35-CII of 2014

Prayer in these applications is for condoning delay of 442 days in re-filing and 15 days in filing the appeal.

Heard.

In view of averments made in the applications supported by an affidavit of Saroj, the applicant-appellant No.1, the applications are allowed and delay of 442 days in re-filing and 15 days in filing the appeal stands condoned but subject to the condition that the applicants/appellants shall not claim interest for the period of delay.

MAIN CASE

The claimants are in appeal seeking enhancement of compensation in regard to death of Ram Niwas in a motor vehicular accident that took place on 21.04.2011.

The learned Tribunal assessed income of the deceased at Rs.5,280/- per month, deducted 1/4th towards personal expenses, applied a multiplier of 15 and added 30% towards future prospects to compute loss of dependency to the tune of Rs.9,26,640/-. In addition, an amount of Rs.20,000/- for consortium to the widow, Rs.10,000/- for

loss of estate and Rs.20,000/- on account of transportation and funeral expenses have been awarded making total compensation to the tune of Rs.9,76,640/-.

Counsel for the claimants has urged that as the deceased was less than 40 years of age, future prospects would be 50% in place of 30% in the light of judgment ***“Rajesh and others Vs. Rajbir Singh and others”***, 2013(3) R.C.R. (Civil) 170. The Tribunal has adopted a multiplier of 15 but the admissible multiplier should be 16 as the deceased was born on 02.12.1975 and was slightly more than 35 years of age at the time of occurrence. The compensation awarded under conventional heads needs re-look, addition and enhancement.

Counsel for the insurance company has supported the award passed by the learned Tribunal.

I have heard counsel for the parties and perused the paperbook particularly the award passed by the learned Tribunal.

The Tribunal has assessed income of the deceased at Rs.5,280/- per month on the basis of minimum wage available to an unskilled worker in the State of Haryana in April, 2011. Though, the claimants have raised a plea that the deceased was working as a Carpenter but there is no corroboration to plea of the claimants by an independent source much less a documentary evidence. Under these circumstances, I do not find any reason to interfere in the assessment of income by the Tribunal. The claimants shall be entitled to benefit of future prospects to the extent of 50% as the deceased was less than 40 years of age. As the deceased was more than 35 years of age on the day of occurrence, the Tribunal has rightly applied the multiplier of 15. In

this manner, loss of dependency comes to **Rs.10,69,200/-** (Rs.5,280/- x 12 x 15 = Rs.9,50,400/- + Rs.4,75,200/- (50% for future prospects) = Rs.14,25,600/- – Rs.3,56,400/- (1/4th deduction towards personal expenses).

Under the conventional heads, the claimants shall be entitled to an amount of **Rs.1,00,000/-** for loss of consortium to widow, **Rs.1,50,000/-** in equal share to the children and **Rs.50,000/-** to mother for loss of love and affection; **Rs.25,000/- each** for expenses on funeral and loss of estate. The total compensation comes to **Rs.14,19,200/-** and the enhanced compensation is **Rs.4,42,560/-** (Rs.14,19,200/- – Rs.9,76,640/-). The enhanced compensation shall be payable with interest @ 7.5% per annum from the date of filing of the petition till realization except the period of delay (457 days).

The enhanced compensation shall be payable to the widow and minor children of the deceased in equal share and shall be deposited in the shape of FDR in a nationalized bank for a period of three years for all or till the children attain the age of majority *qua* them, whichever is later.

The interest accrued on the amount of FDR shall be payable to mother of the minor children for meeting expenses on their education and living.

The appeal is partly allowed in the aforesaid terms.

15.09.2016
yakub

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No