IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO No. 4631 of 2015 (O&M)
Date of decision: 17.11.2016

Harpreet Kaur and others .... *Appellants*

Versus

Pardeep Saini and others ....*Respondents*

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr. Ankur Gupta, Advocate
for the appellants

Mr. Gopal Mittal, Advocate
for respondent No. 3

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Rekha Mittal, J. (Oral)

CM 14572 CII of 2015

Prayer in this application is for condoning delay of 434 days in filing the appeal.

In view of averments made in the application supported by an affidavit of one of the appellants namely Harpreet Kaur and arguments advanced by counsel for the parties, the application is allowed and delay of 434 days in filing the appeal stands condoned subject to the condition that in case the appeal succeeds, claimants will forgo interest for the delayed period.

Main case

The claimants are in appeal seeking enhancement of compensation in regard to death of Onkar Singh in a motor vehicular accident that took place on 21.03.2011.

The Tribunal assessed income of the deceased at Rs.10,000.00 per month, added 40% towards future prospects, deducted 1/4th for personal expensed and applied a multiplier of 15 to compute loss of dependency at Rs.20,70,000.00. In addition, an amount of Rs.2,85,517.00 towards medical expenses and Rs.10,000.00 each for loss of consortium and funeral expenses was awarded making total compensation to Rs.23,75,517.00 payable with interest at the rate of 6% per annum from the date of petition till realization if the compensation is not paid within a period of two months.

Counsel for the appellant has submitted that the deceased was working as a teacher in Sacred Heart Senior Secondary School, Bhai Randhir Singh Nagar, Ludhiana and as per documentary evidence on record, he was getting salary of Rs.12,461.00 per month. It is further submitted that his net pay was Rs.11,462.00 per month but benefit of two deductions towards Provident Fund Rs.780 and Employees State Insurance Rs.219 would also be available to the claimants. Future prospects should be 50% in place of 40% as the deceased was less than 40 years of age. Admissible multiplier should be 16 in place of 15 in view of age of the deceased and in the light of judgment of the Apex Court ***"Sarla Verma v. Delhi Transport Corporation" (2009) 6 SCC 121.*** Compensation awarded under conventional heads need re-looks and enhancement.

Counsel for the insurance Company, on the contrary, has supported the award with the submission that as the deceased was working in a private institution, the Tribunal has rightly allowed future prospects to the extent of 40%.

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

The claimants examined Newton, PGD teacher, Sacred Heart Convent School BRS Nagar Ludhiana(PW2) who deposed with regard to employment of the deceased and his emoluments on the basis of documents Ex.P1 to P5. As per salary certificate Ex.P5, gross salary of the deceased was Rs.12,461.00 and the claimants shall be entitled to compensation on the basis of gross salary as benefit of two deductions made from his salary shall also be admissible to the deceased/claimants. In the light of judgment of Hon'ble Apex Court in ***Rajesh and others v. Rajbir Singh and others 2013 (3) R.C.R. (Civil) 170,*** benefit of future prospects to the extent of 50% is admissible in the circumstances of the present case. Counsel for the Insurance Company has not disputed that the admissible multiplier would be 16 in place of 15 in the present scenario.

In view of the above, loss of dependency comes to Rs.12,461 (rounded off 12460.00) x 12 x 16+11,96,160.00 (50% future prospects) - 8,97,120.00 (1/4th deduction) =Rs.26,91,360.00. Compensation awarded by the Tribunal for medical expenses to the tune of Rs.2,85,517.00 is affirmed.

Under conventional heads, Rs.1,00,000.00 for loss of consortium to widow, Rs.1.5 lac in equal share to children of the deceased and Rs.50,000.00 to mother for loss of love and affection and Rs.25,000.00 each for funeral expenses and loss of estate is awarded. The total compensation comes to Rs.33,26,877.00 and enhanced compensation is Rs.9,51,360.00 which shall carry interest at the rate of 7.5% per annum from the date of petition till realization.

The Tribunal has awarded interest at the rate of 6% per annum only if the respondents therein fail to pay compensation within a period of two months. Once the claimants have been held entitled to compensation from the date of petition, there is no justifiable reason to deny them interest at the rate of 6% per annum from the date of petition till realization on the amount assessed by the Tribunal. Accordingly, the respondents shall be liable to pay interest at the rate of 6% per annum on the amount of Rs.23,75,517.00 determined by the Tribunal from the date of petition till realization.

The additional amount of compensation shall be payable to widow and children of the deceased in equal share except amount of Rs.50,000.00 payable to mother for loss of love and affection. The amount falling to share of the children shall be deposited in Fixed Deposit Receipts in a nationalized Bank till they attain the age of majority or for a period of three years which ever is later. Further the amount falling to share of the widow shall be deposited in a Fixed Deposit Receipt for a period of two years. Interest accruing on the Fixed Deposit Receipts of children shall be payable to mother for meeting expenses on their education and living. The claimants shall not be entitled to raise any loan against the Fixed Deposit Receipts.

It is, however, clarified that the claimants shall not be entitled to interest on the enhanced amount for the period of delay i.e. 434 days.

(Rekha Mittal)
Judge

17.11.2016
mohan bimbra

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No