

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

**FAO No.5741 of 2015 (O&M)
In MACT Case No.217 of 2013
Date of decision: 16.05.2016**

Kartara and others

...Appellants

Versus

Ramesh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. J.S.Khattar, Advocate for
Mr.Pankaj Bali, Advocate,
for the appellants.

Ms.Vandana Malhotra, Advocate,
for respondent No3-Insurance Company.

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JITENDRA CHAUHAN, J.

CM No.18003-CII-2015

The present application under Section 5 of the Limitation Act is for condoning the delay of 63 days in filing the appeal.

Learned counsel for the respondent No.3 states that she has 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 63 days in the filing the appeal is condoned.

CM stands disposed of.

Main case:-

The present appeal has been filed seeking enhancement of compensation awarded by learned Motor Accidents Claims Tribunal,

Karnal, ('the Tribunal', for brevity) vide impugned award dated 30.01.2015.

Learned counsel for the appellants submits that the age of the deceased was 20 years at the time of his death. The Tribunal has wrongly applied the multiplier taking into consideration the age of the claimant-appellants the parents. Further it is contended that nothing has been awarded on account of loss of love and affection and the amount awarded towards funeral expenses i.e. Rs.10,000/- is also inadequate. It deserves to be enhanced.

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.

I have heard the learned counsel for the parties and perused the record.

It has come on record that deceased, Jagdeep, was aged 20 years at the time of his death in the accident. In the postmortem report Ex.P-5, the age of the deceased has also been mentioned as 20 years. The learned Tribunal has applied multiplier of 13 keeping in view the age of the appellant(s). In ***Amrit Bhanu Shali Vs. National Insurance Co. Ltd. (SC), 2012(4) R.C.R. (Civil) 343***, Hon'ble the apex Court was pleased to hold that in a case relating to the death of a bachelor, the basis for determination of multiplier should be the age of the deceased and not that of the claimant(s). In the present case, the deceased was a

bachelor. Therefore, the multiplier of 13 applied by the learned Tribunal is increased to 18. Accordingly, the total dependency comes to Rs. 4,050/- x 12 x 18= Rs.8,74,800/-.

Another amount of Rs.1,00,000/- is awarded to the claimant-mother of the deceased, towards 'loss of love and affection' and another Rs.10,000/- towards 'funeral expenses', in view of the law laid down by Hon'ble the apex Court in ***Vimal Kanwar and others Vs. Kishore Dan and others, (2013-3) PLR 776.***

In view of the above, the claimant-appellants, are held entitled to the enhanced compensation of ₹3,53,000/- [₹2,43,000/- (enhancement towards loss of dependency) + ₹1,00,000/- (towards loss of love and affection) + ₹10,000/- (enhancement towards funeral expenses), over and above the amount already awarded by the learned Tribunal in equal shares, 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 .

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

16.05.2016
hemlata

(JITENDRA CHAUHAN)
JUDGE