

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

**FAO No.8121 of 2014 (O&M)
Decided on: 29.09.2016**

Jawahar Lal and others

....Appellants

Versus

Jaswinder Singh and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. D.K. Prajapati, Advocate
for Mr. Anil Kumar Spehia, Advocate
for the appellants.

Mr. R.N. Singal, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

CM No.21935-CII of 2014

Prayer in this application is for condoning delay of 880 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Jawahar Lal, one of the applicants-appellants, the application is allowed and delay of 880 days in filing the appeal stands condoned but subject to the condition that in case the appeal is accepted, 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 Lakhan Gill in a motor vehicular accident that took place on 12.04.2008.

The learned Tribunal assessed income of the deceased at

Rs.2,200/- per month, deducted 1/3rd towards personal expenses and adopted a multiplier of 18 to compute loss of dependency to the tune of Rs.3,16,800/-. In addition, an amount of Rs.5,000/- has been awarded for funeral and last rites expenses making total compensation to the tune of Rs.3,21,800/- payable with interest @ 7.5% per annum from the date of petition till realization.

Counsel for the appellants has submitted that the Tribunal has not given benefit of increase in income for future prospects and the compensation awarded under conventional heads needs enhancement.

Counsel for the insurance company has submitted that as the deceased was an unmarried boy and claimants are his grandparents and one brother, deduction should be made to the extent of 50%.

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

The Tribunal has not allowed benefit of increase in income for future prospects in the light of judgment ***“Rajesh and others Vs. Rajbir Singh and others”***, 2013(3) R.C.R. (Civil) 170. After allowing benefit to the extent of 50%, income of the deceased is assessed at Rs.3,300/- per month. As the claimants are grandparents and a brother of the deceased, the deduction would be 50% in view of the judgment ***“Smt. Sarla Verma and others vs. Delhi Transport Corporation and another”***, 2009(3) R.C.R. (Civil) 77. In this manner, loss of dependency comes to **Rs.3,56,400/-** (Rs.2,200 x 12 x 18 = Rs.4,75,200/- + Rs.2,37,600/- (50% for future prospects) = Rs.7,12,800/- – Rs.3,56,400/- (50% deduction towards personal expenses).

The claimants shall be entitled to an amount of **Rs.25,000/-** for funeral expenses. The grandparents of the deceased are awarded an amount of **Rs.50,000/-** for loss of love and affection. The total compensation comes to Rs.4,31,400/-. The enhanced compensation is **Rs.1,09,600/-** (Rs.4,31,400/- – Rs.3,21,800/-) payable with interest @ 7.5% per annum from the date of petition till realization exclusively to grandmother of the deceased. It is clarified that the appellants shall not be entitled for interest for the period of delay i.e. 880 days in view of the condition imposed while disposing of application for condonation of delay.

The appeal is partly allowed in the aforesaid terms.

29.09.2016
yakub

(REKHA MITTAL)
JUDGE

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