IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

-.-

FAO 6932 of 2015 (O&M)
Date of decision: 19.12.2016

Smt. Pyari Devi and another .... *Appellants*

Versus

Parveen Sikka and another ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Ms Mansi Bansal, Advocate
for the appellants

Mr. Sidharth Grover, Advocate
for respondent No. 1

Mr. Vikas Chaudhary, Advocate
for respondent No. 2

-.-

Rekha Mittal, J. (Oral)

CM 21660 CII of 2015

Prayer in this application is for condoning delay of 278 days in filing the appeal.

In view of averments raised in the application supported by an affidavit of Pyari Devi, one of the appellants coupled with the factum that provisions of the Motor Vehicles Act, 1988 providing for compensation is a measure of benevolent legislation, the application is allowed and delay of 278 days in filing the appeal is condoned but subject to the condition that the claimants shall forego interest of the delayed period in case the appeal is

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allowed.

Main case

The claimants are in appeal seeking enhancement of compensation in regard to death of Hari Singh in a motor vehicular accident that took place on 07.05.2013.

The learned Tribunal assessed income of the deceased at Rs.6,954.00 per month, added 30% for future prospects, deducted 1/3rd for personal expenses and applied a multiplier of 13 to compute loss of dependency at Rs.09,13,536.00. In addition, Rs.19,839.00 towards expenses on medical treatment, Rs.1,00,000.00 for loss of consortium to the widow and Rs.25,000.00 on account of transportation, funeral and last rites has been awarded making total compensation to Rs.10,58,375.00, payable with interest @ 7.5% per annum from the date of petition till realization.

Counsel for the appellants has submitted that as the deceased was held to be 45 years of age at the time of death, in the light of judgment of Hon'ble the Supreme Court of India ***Sarla Verma v. Delhi Transport Corporation, (2009) 6 SCC 121,*** admissible multiplier should be 14. Compensation awarded under conventional heads needs enhancement.

Counsel for the insurance company has supported the award with the submissions that there is no clear evidence adduced by the claimants with regard to age of the deceased much less proving his date of birth. Counsel for respondent No. 1 has endorsed arguments advanced by counsel for the insurance company.

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

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The Tribunal has relied upon post-mortem report with regard to age of the deceased to be 45 years. There is no evidence adduced by the insurance company to rebut age of the deceased mentioned in the post-mortem report. The insurance company has not preferred an appeal against findings of the Tribunal that age of the deceased at the time of occurrence was 45 years. That being so, admissible multiplier would be 14 in place of 13. After allowing multiplier of 14, loss of dependency is computed at **Rs.10,12,502.40** *i.e.* 6954x12x14 + 3,50,481.60 – 50,6251.20.

Compensation awarded by the Tribunal with regard to medical expenses to the tune of Rs.19,839.00, loss of consortium of Rs.1,00,000.00, expenses of transportation and funeral Rs.25,000.00 is affirmed. The deceased left behind two minor children namely Arvind and Ravi, they are entitled to Rs.1.5 lakhs in equal share for loss of love and affection, guidance, care of their father. The claimants shall be entitled to Rs.25,000.00 for loss of estate.

In this view of the matter, total compensation comes to **Rs.13,32,341.40** and enhanced compensation is **Rs.2,73,966.40** payable with interest @ 7.5% per annum from the date of petition till realization except for a period of 278 days in terms of order allowing application for condonation of delay. The additional amount shall be shared by the widow and children of the deceased in the ratio of 50:25:25. The amount falling to share of the children shall be deposited in FDRs for a period of three years or till they attain the age of majority which ever is later. The amount payable to widow shall be deposited in FDR for a period three years. The appellants shall not be entitled to create any charge against FDRs.

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The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

19.12.2016
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No

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