IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.9504 of 2014 (O&M)
Decided on: 01.12.2016

Kamlesh and others

....Appellants

Versus

Naresh and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. G.S. Sandhu, Advocate
for the appellants.

None for respondent No.1.

Mr. Aseem Aggarwal, Advocate
for respondent No.4.

REKHA MITTAL, J. (Oral)

CM No.26301-CII of 2014

Prayer in this application is for condoning delay of 83 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Kamlesh, the applicant-appellant, the application is allowed and delay of 83 days in filing the appeal stands condoned.

FAO No.9504 of 2014

The claimants are in appeal seeking enhancement of compensation in regard to death of Karambir son of Babu Ram in a motor vehicular accident that took place on 10.06.2011.

The Tribunal assessed income of the deceased at Rs.5,000/- per month, added 30% for future prospects, deducted 1/3rd for personal expenses and adopted a multiplier of 14 to compute loss of

Mohd. Yakub
2016.12.14 13:37
I attest to the accuracy and
authenticity of this document
Chandigarh

dependency at Rs.7,46,676/-. In addition, an amount of Rs.1,30,815/- for medical expenses, Rs.1,00,000/- for consortium, Rs.1,00,000/- for loss of love and affection to the minor children and Rs.25,000/- for funeral expenses has been awarded making total compensation to Rs.11,02,491/- payable with interest @ 12% per annum from the date of petition till realization.

Counsel for the appellants has submitted that claim petition was filed by the widow and three minor children of the deceased and all of them have been held to be dependent upon earnings of the deceased. It is argued that in view of number of dependents, permissible deduction would be 1/4th in place on 1/3rd. Compensation awarded under conventional heads needs re-look and enhancement.

Counsel for the insurance company has supported the award.

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

It is undisputed position of the case that the deceased left behind widow, two minor sons and one minor daughter whose claim for grant of compensation has been accepted by the Tribunal. That being so, admissible deduction would be 1/4th in place of 1/3rd. After reducing deduction to 1/4th from 1/3rd, loss of dependency comes to ***Rs.8,19,000/-*** (Rs.5,000/- x 12 x 14 = Rs.8,40,000/- + Rs.2,52,000/- (30% for future prospects) = Rs.10,92,000/- – Rs.2,73,000/- (1/4th deduction towards personal expenses).

Compensation awarded by the Tribunal *qua* medical expenses, loss of consortium and funeral expenses is affirmed. The

Mohd. Yakub
2016.12.14 13:37
I attest to the accuracy and
authenticity of this document
Chandigarh

minor children of the deceased are awarded an amount of ***Rs.2,25,000/-*** in equal share for loss of love and affection. The claimants shall be entitled to an amount of ***Rs.25,000/-*** for loss of estate. In view of the above, the total compensation comes to Rs.13,24,815/- and the enhanced compensation is ***Rs.2,22,324/-*** (Rs.13,24,815/- – Rs.11,02,491/-) payable with interest @ 7.5% per annum from the date of petition till realization exclusively to children of the deceased in equal share.

The compensation payable to children shall be deposited in fixed deposits in a nationalized bank for a period of three years or till they attain the age of majority whichever is later. The interest accrued on the amount of FDRs shall be payable to mother of the children for meeting expenses on their education and living.

The appeal is partly allowed in the aforesaid terms.

01.12.2016 **(REKHA MITTAL)**
yakub **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable: Yes/No

Mohd. Yakub
2016.12.14 13:37
I attest to the accuracy and
authenticity of this document
Chandigarh