In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 4198 of 2011 (O&M)
Date of Decision: 26.10.2017

Kiru Ram and another ......Appellants

Versus

Dharam Pal and others ....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Parminder Singh, Advocate
for the appellants.

Service of respondent No. 1 dispensed with.

Respondent No. 2 *ex parte*.

Mr. Rajbir Singh, Advocate
for respondent No. 3.

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ANITA CHAUDHRY, J

CM-15604-CII-2011

This is an application seeking condonation of delay of 178 days in filing the appeal.

The reasons given in the application do not justify the condonation but considering that this is the claimants' appeal seeking enhancement and the Motor Vehicles Act is a benevolent legislation, delay of 178 days in filing the appeal is condoned on a condition that the appellants would not be entitled to interest.

FAO-4198-2011

Roop Chand was 60 years old when he met with an accident in April 2007. His major married sons filed a claim petition seeking compensation pleading that the deceased was running a milk dairy and his income was Rs. 8,000/- per month. The Tribunal noted that there was no evidence with respect to the income and took him to be a labourer and assessed the income at Rs. 3600/- per month and had made a deduction of 3/4th as it felt that the major amount was being spent by himself on his own needs and applied the multiplier of 8 to calculate the loss at Rs. 86,400/-. Rs. 2,000/- was allowed for funeral expenses, Rs. 2,000/- for loss of love and affection and Rs. 2,000/- for transportation. An award of Rs. 92,400/- was passed.

The submission on behalf of the appellants is that though the appellants were major but they have been deprived of the company of their father who was the head of the family and used to advice them on all the issues and the children used to look up to him and compensation should have been calculated in the same manner as is being done in ***Sarla Verma's*** case. It was urged that the Tribunal has deducted 3/4th of the income and had applied a wrong multiplier and the income was also taken on the lower side and a sum of Rs. 1,00,000/- should have been allowed for loss of love and affection for the children.

The submission on behalf of the insurance company is that the claimants were not dependants and they were major and married sons having their own income and the father was a labourer and he used to earn and spend entire income on himself and therefore, the deduction was rightly made. It was urged that no amount should have been allowed for loss of love and affection as it is granted only in the case of minor children.

The minimum wages in 2007 were Rs. 3510/- per month. The Tribunal had taken the income as Rs. 3600/- per month. I would not make any change in the income. I would not make any change even in the deduction as the claimants were not dependants but the multiplier applicable would be 9 considering the fact that the deceased was 60 years old and the compensation would, thus, be Rs. 900 x 12 x 9 = 97,200/-. No further amount can be added for loss of love and affection as the amount under this head is allowed for the minor children. The Tribunal had already allowed some amount for transportation. I would increase Rs. 3,000/- for funeral expenses. The total compensation would be as under:-

Sr. No.	**Head of Compensation**	**Amount**
1.	Loss of income	Rs. 97,200/-
2.	Funeral expenses	Rs. 5,000/-
3.	Transportation	Rs. 2,000/-
4.	Loss of love and affection	Rs. 2,000/-
	Total	**Rs. 1,06,200/-**

The Tribunal had allowed Rs. 92,400/- which would be deducted and the balance amount i.e. Rs. 13,800/- would be paid to the claimants within two months failing which the claimants would be entitled to interest @ 6% from the date of the order.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

October 26, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No