

In the High Court of Punjab and Haryana at Chandigarh

FAO-4020 of 2014(O&M)

Date of Decision:4.8.2017

Mrs. Priti and another

---Appellants

vs.

Islam and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Rohan Sharma, Advocate
for the appellants
Mr. Kulwinder Singh, Advocate
for Mr. Sanjeev Goyal, Advocate
for respondent No. 3

Rekha Mittal, J.

C.M.No.12055-CII of 2014

Prayer in this application is for condoning delay of 211 days in filing the appeal.

In view of averments made in the application coupled with the factum that provisions of the Motor Vehicles Act for grant of compensation are meant to enhance social justice and save the victim family from the financial loss caused due to accident, the application is allowed, delay of 211 days in filing the appeal stands condoned subject however, to the condition that in case the compensation is enhanced, the applicants-appellants shall not be entitled to interest for the period of delay.

Application stands disposed of.

FAO No. 4020 of 2014

The claimants are in appeal seeking enhancement of compensation in regard to death of Parveen in a motor vehicular accident that took place on 20.5.2010.

The Motor Accidents Claims Tribunal, Karnal (in short “the Tribunal”) assessed income of the deceased at Rs. 8500/- per month, added 30% for future prospects, deducted 1/3rd for personal expenses and applied multiplier of 17 to compute loss of dependency at Rs. 15,02,664/-. In addition, an amount of Rs. 5000/- on account of loss of consortium and Rs. 10,000/- for funeral expenses was awarded making total compensation to Rs. 15,17,664/-.

Counsel for the appellants-claimants would urge that as the deceased was 24 years old, admissible multiplier would be 18 in place of 17. The Tribunal has allowed benefit of future prospects to the extent of 30% in place of 50%. Compensation awarded under conventional heads needs re-look and enhancement.

Counsel for the insurance company has supported the award with the submission that benefit of future prospects cannot be allowed as the matter with regard thereto is pending consideration before a Larger Bench of Hon'ble the Supreme Court of India in view of reference made in **National Insurance Company Limited vs. Pushpa and others** (Special Leave to Appeal (Civil) 8058 of 2014).

I have heard counsel for the parties, perused the paper book particularly the award.

The Tribunal has accepted plea of the claimants that the deceased was 24 years old. Though the Tribunal has taken note of judgment of Hon'ble the Supreme Court of India **Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298** but has failed to apply correct multiplier of 18 in place of 17.

The Tribunal has allowed benefit of future prospects to the extent of 30% in place of 50% in the light of age of the deceased and judgment of Hon'ble the Supreme Court **Rajesh and others vs. Rajbir Singh and others 2013(3) RCR(Civil) 170**. The mere fact that a reference is pending before a Larger Bench of Hon'ble the Supreme Court of India qua future prospects is not sufficient to deny the said benefit till the judgment in **Rajesh and others' case (supra)** is varied or set aside. The deduction to the extent of 1/3rd towards personal expenses allowed by the Tribunal is liable to be affirmed. In this manner, loss of dependency comes to Rs. 8500 x 12 x 18 = 18,36,000 + 9,18,000 (50%) = 27,54,000 - 9,18,000 (1/3rd) = **Rs. 18,36,000/-**.

Under conventional heads, the appellants shall be entitled to an amount of **Rs. 25,000/-** for expenses on funeral and another Rs. 25,000/- for loss of estate. The widow of the deceased is awarded an amount of **Rs. 1,00,000/-** for loss of consortium whereas the mother is awarded an amount of **Rs. 50,000/-** for loss of love and affection. Under the circumstances, total compensation comes to **Rs. 20,36,000/-** and the additional amount is **Rs. 5,18,336/-**, payable with interest @ 7.5% per annum from the date of petition till realization. The additional amount shall be shared by the claimants in the ratio of 50:50 except the amount of consortium payable to

the widow and loss of love and affection to the mother.

The appeal is partly allowed in the aforesaid terms.

(**Rekha Mittal**)
Judge

4.8.2017
paramjit

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