

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

FAO No.4283 of 2014 (O&M)

Date of decision: 13.12.2017

Hardeep Kaur and others

...Appellants

Versus

Mahipal Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. H.S. Jalal, Advocate for the appellants.

Mr. P.K.S. Phoolka, Advocate for respondent No.1.

Mr. Radhey S. Sharma, Advocate for respondent No.2.

REKHA MITTAL, J. (Oral)

CM No.12390-CII of 2014

Prayer in this application is for condonation of delay of 347 days in filing the appeal.

In view of the averments made in the application supported by affidavit of Smt. Hardeep Kaur, widow of the deceased coupled with the factum that the provisions of Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 347 days in filing the appeal is condoned subject to the condition that the claimants shall forgo interest for the period of delay in case compensation is enhanced.

Main Case

The claimants are in appeal seeking enhancement of compensation in regard to death of Gurjant Singh in a motor vehicular accident that took place on 16.06.2011. The Tribunal has awarded compensation to the tune of Rs.2,37,400/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.3600/-
2. Deduction for personal expenses	1/3 rd
3. Multiplier	8
4. Loss of dependency	Rs.2,30,400/- (28,800 x 8)
5. Expenses on funeral	Rs.2000/-
6. Loss of consortium	Rs.5000/-

Counsel for the claimants would urge that income of the deceased assessed by the Tribunal is less than minimum wage fixed by the State of Punjab and available at the relevant time to a casual worker. The claimants are entitled to multiplier of 11 in the light of judgment of Hon'ble the Supreme Court **Sarla Verma & Ors VS. Delhi Transport Corp. & Anr, 2009 (3) RCR (Civil) 77**. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the other hand, has supported the assessment made by the Tribunal.

The deceased left behind his widow and three sons aged 23, 21 and 17 years. Taking a clue from the minimum wage available to an unskilled worker at the relevant time, income of the deceased is assessed at Rs.3800/- per month. The deduction for personal expenses allowed by the Tribunal is affirmed. In view of age of the deceased, admissible multiplier

would be 11. Claimants shall be entitled to increase in income for future prospects to the extent of 10%. In this manner, loss of dependency comes to Rs.3800 x 12 x 11 + 10% (future prospects) – 1/3rd (deduction for personal expenses) = Rs.3,67,840/-.

Under conventional heads, claimants shall be entitled to following compensation in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors. Special Leave Petition (Civil) No. 25590 of 2014, decided on 31.10.2017 :-**

1. Loss of consortium to the widow	Rs.40,000/-
2. Expenses on funeral	Rs.15,000/-
3. Loss of estate	Rs.15,000/-
Total	Rs.70,000/-

The total compensation comes to Rs.4,37,840/- and the additional amount is Rs.2,00,440/- (4,37,840 – 2,37,400). The additional amount shall carry interest @ 7.5% per annum from the date of petition till realization except for the period of delay, payable to widow of the deceased.

The appeal is partly allowed in the aforesaid terms.

13.12.2017
ashok

(REKHA MITTAL)
JUDGE

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