

223

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

FAO-4955-2013 (O&M)

Date of decision : 01.12.2017

Chander Jyoti and others

... Appellant(s)

Versus

Pardeep Kumar and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Nikunj Dhwan, Advocate for
Mr. Kanwardeep Singh, Advocate
for the appellants.

Mr. Madan Pal, Advocate
for respondent Nos.1 & 2.

Mr. Subhash Goyal, Advocate for
Mr. Rajesh K. Sharma, Advocate
for respondent No.3.

AMIT RAWAL, J. (ORAL)

CM-20995-CII-2013

For the reasons stated in the application, which is duly supported by an affidavit, the application is allowed and the delay of 46 days in filing the appeal on behalf of the applicant/appellant No.2 is condoned.

CM-20996-CII-2013

For the reasons stated in the application, which is duly supported by an affidavit, the application is allowed and the delay of 36 days in re-filing the appeal is condoned.

CM-9552-CII-2015

This is an application under Section 151 of the Code of Civil

Procedure for placing on record the correct paper book/grounds of appeal.

For the reasons stated in the application, which is duly supported by an affidavit, the application is allowed and the correct paper book/grounds of appeal is taken on record, subject to all just exceptions.

FAO-4955-2013

The appeal has been preferred by the parents of the deceased- Guddu Yadav, who died in a motor accident occurred on 15.01.2011, for enhancement of compensation against the award passed by the Tribunal, whereby a compensation of ₹ 95,000/- along with interest @ 6% per annum from the date of filing of the claim petition till its realization, had been awarded. The claim petition has been filed under Section 163-A of the Motor Vehicles Act, 1988 (in short 'the Act').

Learned counsel appearing on behalf of the appellants-claimants submits that the deceased at the time of accident was 16 years of age and was self-employed as labourer. He was stated to be earning ₹ 3,200/- per month, but the Tribunal awarded the compensation to the tune of ₹ 95,000/-, which is on lower side. Moreover, no increase was made in the salary towards future prospects and the amount of ₹ 5,000/- towards funeral expenses and loss of estate is also on lower side, thus, there is scope for enhancement.

On the other hand, learned counsel appearing on behalf of respondent Nos.1 to 3 submits that the Tribunal has taken care of all the heads sufficiently and there is no scope for further enhancement, thus, urges this Court for dismissal of the appeal.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the compensation to the tune of

₹ 95,000/- is too meagre and accordingly, I take the income of the deceased as ₹ 3,200/-. I will make a deduction of ₹ 1/3rd towards personal expenses and apply a multiplier of '16'. The amount of compensation is assessed as under:-

Sr. No.	Heads of claim	Amount (₹)
1	Income	3200
2	Future prospects	
3	Less Deduction (1/3 rd)	1066
4	Multiplicand (annualized by multiplying 12)	25608 (2134x12)
5	Multiplier	16
6	Loss of dependence	409728
7	Loss of Consortium	
8	Loss of estate	2500
9	Funeral expenses	2000
	Total	4,14,228/-

In all the compensation payable shall be ₹ 4,14,228/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @ 6% from the date of filing of the appeal till its realization. The liability shall remain the same as has already been determined by the Tribunal.

The award passed by the Tribunal is modified to the above extent and the appeal stands allowed.

01.12.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned Yes/ No

✓

Whether Reportable Yes/ No