In the High Court of Punjab and Haryana at Chandigarh

FAO-3512 of 2015(O&M)
Date of Decision: 28.11.2017

Indu Bala and others

---Appellants

versus

Parteep Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.Vishal Munjal, Advocate
for the appellants
Mr. Amit Jaiswal, Advocate,
for respondent No. 3

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Rekha Mittal, J.

CM No. 10429-CII of 2015

Prayer in this application is for condoning delay of 575 days in filing the appeal.

Counsel for the applicants-appellants, in line, with the averments set up in the application has submitted that as the applicants, the rustic villagers were in shock due to untimely death of only bread winner of the family and were not aware of their right to file appeal, delay in filing the appeal may be condoned but the applicants are ready to forego interest for the period of delay.

Counsel representing the insurance company, on the contrary, would urge that plea of the applicants that they were not aware of their legal right is patently misconceived in view of the fact that earlier they filed CWP No. 19733 of 2010 to challenge the award dated 25.2.2006 passed by the Lok Adalat and order dated 4.2.2009 passed by the Chairman, District Legal

Services Authority, Gurdaspur.

I have heard counsel for the parties, perused the application supported by an affidavit of Indu Bala, widow of Ranjit Singh.

Ranjit Singh succumbed to injuries sustained in a motor vehicular accident that took place on 24.6.2004 leaving behind his widow, a minor son and a widowed mother in a sudden shock and total loss. The provisions of Section 166 of the Motor Vehicles Act, 1988 are benevolent social legislation enacted with an object to make good the loss, the victim family has suffered, as for as the money can do. In view of the above, procedural lapses or technical considerations cannot be allowed to stand in the way of allowing just and reasonable compensation available to family of the deceased. Accordingly, application for condonation of delay is allowed. Delay of 575 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.

FAO NO. 3512 of 2015

The Motor Accidents Claims Tribunal, Pathankot (in short "the Tribunal") assessed compensation to the tune of Rs. 6,21,500/-, detailed hereunder:-

Monthly income	Rs. 4500/-
Deduction for personal expenses	1/3rd
Multiplier	17
Loss of dependency	36000x17=6,12,000/-
General damages	Rs. 9500/-

Counsel for the appellant would submit that the Tribunal has not allowed benefit of increase in income for future prospects to the extent of 40% as the deceased was 25 years old. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the contrary, has supported the award with the submission that earlier the claimants settled the dispute in the Lok Adalat and award dated 25.2.2006 was passed. The award passed by the Lok Adalat was set aside on sympathetic consideration vide order dated 25.3.2011 passed in CWP No. 19733 of 2010. It is further argued that in case plea of the claimants for enhancement of compensation is allowed, they should not be allowed interest for the intervening period. The last submission made by counsel is that the claimants are not entitled to benefit of increase in income for future prospects as the same is available in case deceased had established income.

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

The Tribunal has assessed income of the deceased by treating him as a labourer. There is nothing on record suggestive of the fact that the deceased was suffering from any disability to impair his capacity to work and earn livelihood for himself and his family. It is difficult to accept that the deceased would have stagnated at income of Rs. 4500/- per month, had he remained alive. In the circumstances, claimants are entitled to increase in income for future prospects to the extent of 40% in the light of latest enunciation laid down by Hon'ble the Apex Court in **Special Leave Petition (Civil) No. 25590 of 2014 (National Insurance Company Limited vs. Pranay Sethi and others** decided on 31.10.2017. As the deceased was 25 years old, in view of plea raised by the claimants though in the post mortem report, he is recorded to be less than 25 years of age, claimants shall be entitled to loss of dependency by applying multiplier of 18. In this manner, loss of dependency comes to Rs. 4500 x12x 18= 9,72,000 + 3,88,800 (40%) =13,60,800 – 4,53,600 (deduction 1/3rd)=**Rs. 9,07,200/-** .

Under conventional heads, the claimants shall be entitled to the following compensation:-

Loss of consortium to the widow	**Rs. 40,000/-**
Funeral expenses	**Rs. 15,000/-**
Loss of estate	**Rs. 15,000/-**

The total compensation comes to **Rs.9,77,200/-** and the additional amount is **Rs. 3,64,700/-** (9,77,200- 6,12,500).

This brings the Court to the question as to from which date the claimants should be held entitled to interest on the additional amount. Indisputably, the application for compensation filed in August 2004 was decided by the Lok Adalat vide award dated 25.2.2006. The claimants filed CWP No. 19733 of 2010 to challenge award of the Lok Adalat and so also the order passed by the Chairman, District Legal Services Authority, Gurdaspur dated 4.2.2009 whereby application of the claimants to set aside award of the Lok Adalat came to be dismissed by the said authority. Perusal of order dated 25.3.2011 passed in the aforesaid writ petition makes it evident that this court set aside award of the Lok Adalat with the observations that it would be expedient if the claim petition is decided on merits. It was also informed to the Court that amount of Rs. 2.5 lakhs awarded by the Lok Adalat has already been deposited with the Tribunal. Under the circumstances, it would be in the fitness of things that the claimants are allowed interest on the additional amount with effect from 25.3.2011. Accordingly, the claimants shall be entitled to interest on the additional amount at the rate of 7.5% per annum with effect from 25.3.2011 till realization except for the period of delay of 575 days. The additional amount shall be payable to widow and minor child of the deceased, to be shared equally. The amount falling to share of the minor shall be deposited in a fixed deposit payable on his attaining age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

28.11.2017
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No