IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3528 of 2016 (O&M)
Date of decision: 07.10.2017

Rajneesh Kaur and others ...Applicant/Appellants

Versus

Kamaljit Singh and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. G.S. Salana, Advocate
for the applicant/appellants.

Mr. Pardeep Goyal, Advocate
for respondent No.3.

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REKHA MITTAL, J. (Oral)

CM No.12544-CII of 2016

Prayer in this application is for condonation of delay of 388 days in filing the appeal.

Heard.

In view of the averments made in the application supported by affidavit of Smt. Rajneesh Kaur wd/o Late Sh. Charanjit Singh, the application is allowed and delay of 388 days in filing the appeal stands condoned, subject to condition that in case the appellants succeed in appeal, they will forego interest for the delayed period.

The application stands disposed of.

Main Case

The claimants are in appeal seeking enhancement of compensation in regard to death of Charanjit Singh in a motor vehicular accident that took place on 08.12.2013.

The Motor Accidents Claims Tribunal, Fatehgarh Sahib (hereinafter to be referred as 'the Tribunal') awarded compensation to the tune of Rs.9,35,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.6,000/- per month
Deduction	1/4th (6000 – 1500 = Rs.4500/-)
Multiplier	15
Loss of dependency	4500 x 12 x 15 = Rs.8,10,000/-
Loss of consortium	Rs.1,00,000/-
Expenses on funeral	Rs.25,000
Total	Rs.9,35,000/-

Counsel for the appellants has submitted that compensation awarded by the Tribunal both in regard to loss of dependency as well as under conventional heads is on lower side and needs enhancement. To support his contention, it is argued that the Tribunal has assessed income of the deceased at Rs.6,000/- per month but the deceased was earning Rs.8,500/- per month, working as a driver. The Tribunal has not allowed benefit of increase in income for future prospects to the extent of 50%. The Tribunal has not allowed compensation for loss of love and affection to the minor children and mother of the deceased as well as loss of estate.

Counsel representing the insurance company, on the other hand, has supported the award with the submission that the claimants failed to adduce satisfactory much less tangible evidence to prove income of the deceased at Rs.8,500/- per month. It is further argued that claimants are not entitled to benefit of increase in income for future prospects as the matter in this regard is pending consideration before a Larger Bench of Hon'ble the Supreme Court in view of reference made in **National Insurance Company Ltd. Vs. Pushpa,** (SLP (c) No.16735 of 2014, decided on 02.07.2014).

I have heard counsel for the parties, perused the paper book particularly the award dated 08.12.2014.

There is no dispute that Charanjit Singh sustained injuries in the occurrence when he was driving mini bus in which certain members of catering party and others were travelling, therefore, the deceased was a driver of the mini bus. The claimants have not adduced any corroborative much less documentary evidence that income of the deceased was Rs.8,500/- per month at the relevant time. Taking into consideration the minimum wage of a skilled worker available at the relevant time, assessment of income made by the Tribunal at Rs.6,000/- per month is correct. However, the Tribunal has not extended benefit of increase in income for future prospects.

The deceased was born in 1975 and unfortunately died in December, 2013. He left behind his young widow, two minor sons in shock. There is nothing on record suggestive of the fact that deceased was suffering from any ailment impairing his capacity to earn livelihood for himself and his family. Under the circumstances, it is difficult to accept that the deceased would have stagnated at income of Rs.6,000/- per month, had he remained alive. I stand fortified in my observations from the fact that State Governments revise minimum wages at short intervals. In this view of the matter, the mere fact that reference is pending before a Larger Bench of Hon'ble the Supreme Court is not sufficient to deny the benefit of future prospects till judgment in **Rajesh and others Vs. Rajbir Singh and others, (2013) 9 SCC 54** is varied or set aside. The Tribunal has rightly applied deduction for personal expenses to the extent of $1/4^{th}$ and multiplier of 15 for computing loss of dependency. In view of the above, loss of dependency comes to Rs.6750 x 12 x 15 = Rs.12,15,000/-

Under conventional heads, compensation for loss of consortium of Rs.1 lakh and funeral expenses Rs.25,000/- awarded by the Tribunal is affirmed. The claimants shall be entitled to further compensation under conventional heads:-

1	Loss of love and affection, care and guidance to the minor sons	Rs.1.5lakh
2	Loss of love and affection to the mother	Rs.50,000/-
3	Loss of estate	Rs.25,000/-
	Total	Rs.2,25,000/-

The total compensation is calculated at Rs.15,65,000/- and the additional amount is Rs.6,30,000/- (15,65,000 – 9,35,000). The additional amount shall carry interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 388 days. The additional amount shall be payable to minor children of the deceased except the amount for loss of love and affection allowed to mother of the deceased.

The share of the minor children shall be deposited in FDRs payable on their attaining age of majority or for a period of three years, whichever is later. Interest accruing on the FDRs shall be paid to mother of the minor children for meeting expenses of their education and living.

The appeal is partly allowed in the aforesaid terms.

07.10.2017 **(REKHA MITTAL)**
ashok **JUDGE**

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