

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No. 4562 of 2015 (O&M)
Date of decision : December 20, 2017

Monika and others

..... Appellants

Versus

Dalbir Singh and others

..... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present:- Mr. Saurabh Dalal, Advocate
for the appellants.

Mr. S. S. Kharb, Advocate
for respondent No.1.

Ms. Tanuj Sharma, AAG., Haryana.

Mr. Radhey Shyam Sharma, Advocate and
Ms. Ramandeep Kaur Boparai, Advocate
for respondent No.3.

REKHA MITTAL J (Oral).
CM No. 14503-CII of 2015

Prayer in this application is for condonation of delay of
700 days in refiling the appeal.

In view of the averments made in the application coupled
with the legislative intent behind the provisions enabling the victim family
of the motor vehicular accident to get compensation, the application is
allowed and delay of 700 days in refiling the appeal is condoned subject to
the condition that the claimant shall forego interest of the period of delay in
case compensation is enhanced.

FAO No. 4562 of 2015 (O&M)

The claimants are in appeal seeking enhancement of
compensation in regard to death of Ashok Kumar in a motor vehicular
accident that took place on 27.6.2012.

The tribunal has awarded compensation to the tune of Rs.13,70,000/-though an amount of Rs.20,000/- awarded for loss of consortium has not been added while computing total sum payable to the claimants, detailed hereunder:-

S.No.	Heads of claim	Amount (Rs.)
1.	Monthly income of the deceased	10,000/-
2.	Multiplier	15
3.	Deduction for personal expenses	1/4 th
4.	Loss of dependency	90,000/- x 15=13,50,000/-
5.	Last rites and transportation of the dead body	20,000/-
6.	Loss of consortium	20,000/-
	Total	13,70,000/-

Counsel for the claimants submits that the tribunal has not awarded benefit of increase of income for future prospects to the extent of 40%. Adequate compensation may be awarded under conventional heads.

Counsel representing the Insurance Company has supported the award.

The tribunal has assessed income of the deceased at Rs.10,000/- per month. The deceased was 37 years old at the time of occurrence. In the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others 2017 ACJ 1270**, claimants are entitled to increase in the income to the extent of 40%. The multiplier and deduction for personal expenses allowed by the tribunal are affirmed. In this manner, loss of dependency comes to

Rs.10000 x 12 x 15 (1800000) + 40% thereof (720000) – 1/4th (630000) = 1890000/-.

Under conventional heads, claimants shall be entitled to following compensation in the light of judgment in *Pranay Sethi and others's case (supra)*.

S.No.	Heads of claim	Amount
1	Loss to estate	Rs. 15,000/-
2	Funeral expenses	Rs. 15,000/-
3	Loss of consortium	Rs. 40,000/-
	Total	Rs. 70,000/-

The total compensation is Rs. 1960000/-. The additional amount of Rs.590000/- (1960000-13,70,000/-) is payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 700 days, to the widow and children of the deceased in equal proportion. The amount falling to share of the children shall be deposited in Fixed Deposit Receipts till they attain the age of majority or for a period of 3 years whichever is later. The interest accruing on FDRs shall be payable to mother for incurring expenses on education and living of the children.

The appeal is partly allowed in the abovesaid terms.

(REKHA MITTAL)
JUDGE

December 20, 2017
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No