

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

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FAO 4816 of 2015 (O&M)
Date of decision: 25.07.2017

Amandeep Kaur and another*Appellants*
Versus
Adarash Gautam and others*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Ms Rosi, Advocate for
Mr. M D Khan, Advocate
for the appellants

Mr. Deepak Gupta, Advocate
for respondent No. 1 and 2

None for Insurance Company

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Rekha Mittal, J. (Oral)

CM 14879 CII of 2015

Prayer in this application is for condoning delay of 171 days in filing the appeal.

In view of averments made in the application supported by an affidavit of one of the appellants namely Amandeep Kaur and arguments advanced by counsel for the parties, the application is allowed and delay of 171 days in filing the appeal stands condoned, subject to condition that in case the appellants succeed in appeal, they will forgo interest for the delayed period.

Main appeal

The claimants are in appeal seeking enhancement of

compensation in respect of death of Harvinder Singh in a motor vehicular accident that took place on 14.02.2014.

Learned Tribunal assessed income of the deceased at Rs.2,36,500.00 per annum, deducted 1/3rd towards personal and living expenses of the deceased, adopted multiplier of 11 to compute loss of dependency to the tune of Rs.17,34,337.00. In addition, a sum of Rs.50,000.00 for loss of consortium and Rs.20,000.00 for funeral expenses has been awarded making total compensation to the tune of Rs.18,04,337.00, payable with interest at the rate of 6% per annum from the date of claim petition till realisation within a period of three months and failure to do so would attract interest at the rate of 8% per annum from the date of petition till realization.

Counsel for the appellants has contended that compensation assessed by the Tribunal both with regard to loss of dependency as well as under conventional heads needs re-look and enhancement in the light of judgments by Hon'ble the Supreme Court of India ***Rajesh and others v. Rajbir Singh and others 2013 (3) R.C.R. (Civil) 170*** and ***Munna Lal Jain and another v. Vipin Kumar Sharma and others 2015 (6) SCC 347***. It is further argued that the claimants are entitled to interest @ 8% per annum from the date of petition till realization.

Counsel representing respondents No. 1 and 2 has supported the award with the submission that the Tribunal has assessed loss of dependency on the basis of income of the deceased shown in the Income Tax Return for the year 2013-14.

I have heard counsel for the parties and perused the paper book particularly the award dated 25.08.2014.

The deceased was 51 years of age and an income tax assessee. The Tribunal has not extended benefit of increase in income towards future prospects. Taking into consideration judgment of Hon'ble the Supreme Court of India ***Rajesh and others v. Rajbir Singh and others 2013 (3) R.C.R. (Civil) 170***, the claimants shall be entitled to increase in income to the extent of 15% by allowing benefit of future prospects. The loss of dependency comes to $(Rs.1,57,667 + 23650.00) \times 11 = \underline{19,94,487.00}$.

Under conventional heads, the appellants shall be entitled to a sum of Rs.25,000.00 for funeral expenses, Rs.25,000.00 for loss of estate, Rs.1,00,000.00 for loss of consortium to the widow and Rs.1,00,000.00 for loss of love and affection to sons of the deceased. In this manner, total compensation comes to $Rs.19,94,487.00 + 25,000.00 + 25,000.00 + 1,00,000.00 + 1,00,000.00 = \underline{Rs.22,44,487.00}$ and additional amount is $Rs.22,44,487.00 - 18,04,337.00 = \underline{Rs.4,40,150.00}$ and the same shall be payable exclusively to widow of the deceased with interest @ 7.5% per annum from the date of petition till realization. It is, however, clarified that the claimants shall not be entitled to interest on the enhanced amount for the period of delay i.e. 171 days.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

25.07.2017
mohan bimbra

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