In the High Court of Punjab and Haryana at Chandigarh

FAO-5519 of 2015(O&M)
Date of Decision:6.11.2017

Anita and others

---Appellants

vs.

Krishan and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

***

Present: Mr.Arun Singal, Advocate
for the appellants

Mr. Sanjeev Goyal, Advocate
for respondent No. 3

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Rekha Mittal, J.

CM No. 17332-CII of 2015

Prayer in this application is for condoning delay of 204 days in filing the appeal.

In view of averments made in the application coupled with the factum that provisions of the Motor Vehicles Act for grant of compensation are meant to enhance social justice and save the victim family from the financial loss caused due to accident, the application is allowed, delay of 204 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.

Application stands disposed of.

FAO- 5519 of 2015

The claimants are in appeal seeking enhancement of compensation in regard to death of Ravi Parkash @ Ravi in a motor vehicular accident that took place on 3.12.2011. The Motor Accidents Claims Tribunal, Panipat (hereinafter to be referred as "the Tribunal") awarded compensation to the tune of Rs. 6,07,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 4200/-
Deduction for personal expenses	1/4th
Multiplier	15
Loss of dependency	37,800 x 15 =Rs. 5,67,000/-
Loss of consortium	Rs. 30,000/-
Expenses on transportation, funeral and last rites	Rs. 10,000/-

Counsel for the appellants would urge that the Tribunal has not allowed benefit of increase in income for future prospects to the extent of 40% in the light of latest enunciation of law 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 35 years old, admissible multiplier in the light of judgment of Hon'ble the Supreme Court **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298** would be 16. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the contrary would urge that as income of the deceased has been assessed on the basis of minimum wage of a casual labourer, claimants are not entitled to increase in income for future prospects.

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

The claimants raised the plea that the deceased was a driver by profession and used to earn Rs. 25,000/- per month. The Tribunal refused to rely upon uncorroborated testimony of Smt. Anita Devi PW1 with regard to avocation and income of the deceased and assessed income of the deceased by taking into consideration daily wage. The deceased left behind family consisting of his widow, two minor children and parents. There is nothing on record suggestive of the fact that the 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 contention of the insurance company that the claimants are not entitled to benefit of increase in income for future prospects to the extent of 40%.

The Tribunal has held that the deceased was 35 years of age at the time of death. As the deceased was in the age bracket of 31-35 years, admissible multiplier would be 16. The deduction for personal expenses allowed by the Tribunal is affirmed. In view of the above, loss of dependency comes to 4200 x 12 x 16 = 8,06,400 +3,22,560 (40%) =11,28,960 -2,82,240 =**Rs.8,46,720/-.**

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

Loss of consortium to widow	**Rs. 40,000/-**
Expenses for funeral	**Rs. 15,000/-**
Loss of estate	**Rs. 15,000/-**

The total compensation comes to **Rs.9,16,720/-** and the additional amount is **Rs. 3,09,720/-**, payable with interest at the rate of 7.5% per annum from the date of petition till realization except for the period of delay to widow and minor children of the deceased in equal proportion. The amount falling to share of the children shall be deposited in a fixed deposit receipt payable on their 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

6.11.2017
paramjit

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