IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 6469 of 2015 (O&M)
Date of decision: 17.11.2017

Bhupinder Kaur .... *Appellant*

Versus

Roshan Singh and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Karan Padam, Advocate
for the appellant

Ms. Vandana Malhotra, Advocate
for respondent No. 4

None for respondent No. 5

-.-

Rekha Mittal, J.

CM 20286 CII of 2015

Prayer in this application is for condonation of delay of 116 days in filing the appeal.

In view of averments made in the application supported by an affidavit of the applicant and arguments advanced, application is allowed and delay of 116 days in filing the appeal stands condoned.

Main case

The claimant (unfortunate mother of deceased Amrinder Singh) is in appeal seeking enhancement of compensation in regard to death of her son in a motor vehicular accident that took place on 08.11.2012.

The Tribunal has awarded compensation of Rs.7,15,988.00, detailed hereunder:-

Monthly income of the deceased	Rs.11,222.00
Deduction for personal expenses	50%
Multiplier	9
Loss of dependency	Rs.6,05,988.00
Loss of love and affection	Rs.1,00,000.00
Expenses on funeral	Rs.5,000.00
Loss of estate	Rs.5,000.00

Counsel for the appellant has submitted that the Tribunal has not allowed benefit of increase in income for future prospects to the extent of 40% as the deceased was 26 years old. The Tribunal has wrongly applied multiplier of 9 on the basis of age of mother of the deceased in place of appropriate multiplier on the basis of age of the deceased. For this purpose, he has referred to latest judgment of Hon'ble the Supreme Court of India in ***National Insurance Company Limited v. Pranay Sethi and others*** (SLP (Civil) 25590 of 2014, decided on 31.10.2017). Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the other hand, would urge that as per the latest judgment of the Constitution Bench in *Pranay Sethi's* case (supra), claimant is not entitled to any compensation for loss of love and affection.

The Tribunal has assessed income of the deceased at Rs.11,222.00 per month on the basis of evidence that the deceased was working as a Salesman with M/s V R Logistics Private Limited, Focal Point, Ludhiana. The claimant shall be entitled to increase in income for future prospects to the extent of 40% as deceased was less than 40 years of age.

The Tribunal has applied multiplier of 9 on the basis of age of mother in place of multiplier of 17 as the deceased was 26 years of old at the time of occurrence. The deduction for personal expenses to the extent of 50% allowed by the Tribunal is affirmed in the light of enunciation laid down by Hon'ble the Supreme Court in ***Sarla Verma and others v. Delhi Transport Corporation and another 2009(3) R.C.R. (Civil) 77.*** In this manner, loss of dependency comes to **Rs.16,02,501.60** (Rs.11,222 x 12 x 17 = Rs.22,89,288.00 + Rs.9,15,715.20 (40% future prospects) – Rs.16,02,501.60 (50% deduction).

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

Expenses on funeral and last rites	Rs.15,000
Loss of estate	Rs.15,000

Total compensation comes to **Rs.16,32,501.0**0 (Rs.16,02,501 + Rs.30,000) and the additional amount is **Rs.9,16,513.00** (Rs.16,32,501.00 - Rs.7,15,988.00) payable with interest at the rate of 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

November 17, 2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No