IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

204 FAO No.2749 of 2011 (O&M)
Date of decision: 29.08.2018

SUMAN ... Appellant

Versus

R.S. SACHDEVA AND ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Kartar S. Malik-I, Advocate for the appellant.

Ms. Anamika Mehra, Advocate for the insurance company.

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<u>REKHA MITTAL, J. (Oral)</u>

CM-9185-CII-2011

Prayer in this application is for condonation of delay of 595 days in filing the appeal.

In view of averments made in the application supported by an affidavit of Smt. Kusum, wife of Sh. Manoj Kumar coupled with that the provisions of Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 595 days in filing the appeal is condoned subject to the condition that the claimant shall forgo interest for the period of delay in case compensation is enhanced.

Main Case

Suman, wife of Parmod (since deceased) arrayed as respondent No.5 in the claim application preferred by Smt. Kela Devi and another, parents of deceased Parmod, has filed the appeal seeking enhancement of compensation.

The Tribunal has awarded compensation of Rs.2,21,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.3000/-
2. Multiplier	12
3. Deduction for personal expenses	50%
4. Loss of dependency	Rs.2,16,000/-
5. Funeral expenses	Rs.5000/-

Initially, the Tribunal awarded compensation of Rs.2,21,000/-

but later it was assessed to the tune of Rs.2,52,000/- out of which a sum of Rs.30,000/- has been paid to the widow and the remaining amount to the parents in equal share. The application for compensation was filed under Section 163-A of the Motor Vehicles Act, 1988 and compensation is to be assessed in view of the structured formula laid down in the Second Schedule appended thereto. The Tribunal has assessed income of the deceased at Rs.3000/- per month and the same is affirmed. The admissible deduction for personal expenses would be 1/3rd as per the Second Schedule. As the deceased was 22 years old, admissible multiplier is 17. In this manner,loss of dependency is calculated at Rs.4,08,000/- [(Rs.3000 x 12 x 17) – (1/3rd deduction for personal expenses)].

Under conventional heads, claimants shall be entitled to Rs.9500/-, detailed hereunder:-

1. Funeral expenses	Rs.2000/-
2. Loss of consortium	Rs.5000/-
3. Loss of estate	Rs.2500/-

Total compensation is Rs.4,17,500/- and the additional amount is Rs.1,65,500/- (4,17,500 – 2,52,000), payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay.

The application for compensation was filed by parents of the deceased and the appeal has been preferred by widow of the deceased. The Tribunal in para 4 has noticed that Parmod died within five days of his marriage and widow left the matrimonial home and got remarried. In the given scenario, out of additional amount, 30% shall be payable to the widow and the remaining 70% shall be payable to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

29.08.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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