IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 1284 of 2012 (O&M)
Date of decision: 31.05.2018

Nisha and another ....*Appellants*

Versus

Sunil and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Ramender Chauhan, Advocate
for the appellants

Mr. Sumeet Sangwan, Advocate
for respondent No. 2

Mr. Sudhir Hooda, Advocate
for respondent No. 4

-.-

Rekha Mittal, J. (Oral)

CM 5327 CII of 2012

Prayer in this application is for condoning delay of 308 days in re-filing the appeal.

In view of averments made in the application supported by an affidavit of one of the applicants/appellants namely Nisha and arguments advanced, the application is allowed and delay of 308 days in re-filing the appeal stands condoned subject to the condition that in case the appellants succeed in appeal, they will forego interest for the period of delay.

Main case

The claimants are in appeal seeking enhancement of

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compensation on account of death of Vinod alias Jinder in a motor vehicular accident that took place on 05.03.2010.

The Tribunal has awarded compensation of Rs.4,23,200.00, detailed hereunder:-

Monthly income of deceased	Rs.3,600.00
Deduction for personal expenses	1/3rd
Multiplier	14
Loss of dependency	Rs.4,03,200.00
Loss of consortium	Rs.10,000.00
Expenses of transportation of dead body	Rs.10,000.00

The Tribunal has assessed income of the deceased at Rs.3,600.00 per month by treating him as an unskilled labour. However, perusal of the notification issued by the State of Haryana and in vogue at the relevant time, minimum wage of unskilled labourer was Rs.4,214.20. Accordingly, income of the deceased is assessed at Rs.4,250.00 per month. The claimants shall be entitled to benefit of future prospects at the rate of 40%. As the deceased was 24 years old, admissible multiplier, in the light of judgment of Hon'ble the Supreme Court ***Sarla Verma and others v. Delhi Transport Corporation and another 2009(3) R.C.R. (Civil) 77,*** is 18. Deduction for personal expenses allowed by the Tribunal is affirmed. In this view of the matter, loss of dependency is calculated at Rs.8,56,800.00 (Rs.9,18,000.00 *i.e.* 4,250 x 12 x 18 + Rs.3,67,200.00 (40% future prospects) – Rs.4,28,400.00 (1/3rd deduction).

Under conventional heads, claimants shall be entitled to Rs.70,000.00, in the light of judgment of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SC 1270***, detailed hereunder:-

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Loss of consortium to widow	Rs.40,000.00
Expenses of funeral and last rites	Rs.15,000.00
Loss of estate	Rs.15,000.00

Total compensation comes to Rs.9,26,800.00 (Rs.8,56,800.00 + Rs.70,000.00) and additional amount is Rs.5,03,600.00 (Rs.9,26,800.00 – Rs.4,23,200.00), 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 minor daughter of the deceased, to be invested in fixed deposit for a period of three years or till she attains the age of majority whichever is later. However, interest on FDR shall be payable to the mother for meeting her (minor's) expenses of education and living.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

31.05.2018
mohan bimbra

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

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