

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

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FAO No.6314 of 2011 (O&M)

Date of decision: 25.10.2018

SUKHDEEP KAUR BAJWA & ORS

... Appellants

Versus

GURMEET SINGH & ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sanjeev K. Patiyal, Advocate for the appellants.

Mr. Vikas Chatrath, Advocate and
Ms. Jasleen Kaur, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

CM-24967-CII-2011

Prayer in this application is for condonation of delay of 776 days in filing the appeal.

In view of averments made in the application supported by an affidavit of Smt. Sukhdeep K. Bajwa, widow of the deceased coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 776 days in filing the appeal is condoned subject to the condition that the claimants shall forgo interest for the period of delay, in case compensation is enhanced.

Main Case

The claimants are in appeal seeking enhancement of compensation on account of death of Bikramjit S. Bajwa in a motor vehicular accident that took place on 22.06.2006.

The Tribunal has awarded compensation of Rs.43,81,000/-, detailed hereunder:-

1. Annual income of the deceased	Rs.3,65,000/-
2. Multiplier	18
3. Deduction for personal expenses	1/3 rd

4. Loss of dependency	Rs.43,74,000/-
5. Expenses on funeral	Rs.2000/-
6. Loss of consortium to the widow	Rs.5000/-

Counsel for the claimants would argue that as the deceased was a government employee, less than 30 years of age at the time of unfortunate occurrence, claimants are entitle to addition in income for future prospects @ 50%. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the contrary, would argue that the Tribunal has not deducted income tax.

The Tribunal has assessed income of the deceased to the tune of Rs.3,65,000/- per annum, detailed hereunder:-

1. Income/pension from Army per annum	Rs.1,53,000/-
2. Salary per annum	Rs.1,76,000/-
3. Other income per annum	Rs.36,000/-

Counsel for the appellants would inform that after death of Bikramjit Singh Bajwa, his widow has been allowed family pension @Rs.2655/- per month and annual pension is Rs.31,860/- (2655 x 12). Claimants shall be entitle to difference of pension drawn by the deceased and family pension available to widow of the deceased and the same comes to Rs.1,21,140/- (1,53,000 – 31,860). In this context, reference can be made to judgment of this Court **Charanjit Singh Vs. Harish Kumar Sachdeva and others, FAO No.10228 of 2014 and other connected cases, decided on 30.01.2018.**

The Tribunal has also allowed benefit of Rs.36,000/- per annum derived on investment of Rs.85,000/- in government schemes. As this income would be available to family of the deceased even after his death, the claimants cannot be given double of the benefit by way of undue enrichment. Claimants shall be entitle to addition in income for future prospects @ 50% only qua amount of Rs.1,76,000/-. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. Loss of dependency qua income/pension from Army is calculated at Rs.13,08,312/- $[(1,21,140 - 12,114 \text{ (Income Tax)}) \times 18] - (1/3^{\text{rd}})$

deduction for personal expenses)] and qua salary comes to Rs.30,31,200/-
[((1,76,000 – 7600(Income Tax)) x 18) + (50% future prospects) – (1/3rd
deduction for personal expenses)]. In this manner, total loss of dependency
is calculated at Rs.43,39,512/-.

Under conventional heads, claimants shall be entitle to
Rs.1,10,000/-, detailed hereunder:-

- | | |
|---|------------------------------------|
| 1. Loss of consortium to claimants No.1 and 2 | Rs.80,000/-
(Rs.40,000/- each) |
| 2. Expenses on last rites | Rs.15,000/- |
| 3. Loss to estate | Rs.15,000/- |

Total compensation is Rs.44,49,512/- and the additional
amount is Rs.68,512/- (44,49,512 - 43,81,000), payable with interest
@7.5% per annum from the date of petition till realization, except for the
period of delay of 776 days in filing the appeal. The compensation shall be
apportioned by the claimants in terms of the award passed by the Tribunal.
The amount falling to share of minor shall be invested in fixed deposit
payable on his attaining age of majority or for a period of three years,
whichever is later.

The appeal is partly allowed in the aforesaid terms.

25.10.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No