In the High Court of Punjab and Haryana at Chandigarh

FAO- 3598 of 2012(O&M)
Date of Decision: 29.1.2018

Jagjit Kaur

---Appellant

versus

Sh. Vijay Kumar and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Chandandeep Singh, Advocate
for the appellant
Mr. Pardeep Kumar, Advocate,
for the insurance company

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Rekha Mittal, J.

CM No. 15670-CII of 2012

Prayer in this application is for condoning delay of 213 days in filing the appeal.

In view of averments made in the application coupled with 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 213 days in filing the appeal stands condoned subject however, to the condition that in case the compensation is enhanced, the applicant-appellant shall not be entitled to interest for the period of delay.

Disposed of accordingly.

FAO No. 3598 of 2012

The claimants are in appeal seeking enhancement of compensation in regard to death of Kuldeep Singh in a motor vehicular accident that took place on 12.12.2004.

The Motor Accidents Claims Tribunal, Ludhiana (in short "the Tribunal") has awarded compensation to the tune of Rs.2,79,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 3200/-
Deduction for personal expenses	50%
Multiplier	13
Loss of dependency	19200 x 13= 2,49,600/-
Expenses on transportation, funeral and last rites	Rs. 20,000/-
Loss of love and affection	Rs. 10,000/-

Counsel for the appellant has submitted that the Tribunal has not allowed benefit of increase in income for future prospects. The multiplier adopted by the Tribunal is not as per age of the deceased and liable to be corrected 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**. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company has supported assessment made by the Tribunal with the submission that compensation under conventional heads may be allowed in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270**.

Perusal of para 13 of the award leaves no doubt that the Tribunal has not allowed benefit of increase in income for future prospects. In the light of judgment in **Pranay Sethi and others' case (supra)**, claimant shall be entitled to increase in income for future prospects @ 40%. The deceased was 22 years old, therefore, admissible multiplier would be 18. In this manner, loss of dependency comes to Rs. 3200X12x18= 6,91,200 +2,76,480=9,67,680 - 4,83,840= **Rs. 4,83,840/-.**

Under conventional heads, the Tribunal has awarded an amount of Rs. 30,000/- and the same is affirmed subject to modification that the claimant shall be entitled to Rs. 15,000/- for expenses on funeral/last rites and another Rs. 15,000/- for loss of estate.

In view of the above, total compensation comes to Rs. 5,13,840/- and the additional amount is **Rs. 2,34,840/-** (5,13,840 -2,79,000), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

29.1.2018
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No