Sr. No. 212
IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.10093 of 2014 (O&M)
Date of Decision: 13.09.2018

Rajindro Devi and another

... Appellants

Versus

Ajay Sharma and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Vivek Suri, Advocate,
for the appellants.

Mr. Sanjeeva Kumar, Advocate for
Mr. Sourabh Goel, Advocate,
for respondent Nos.2 and 3.

TEJINDER SINGH DHINDSA, J.(ORAL)

CM No.27869-CII of 2014

Instant application has been filed under Section 5 of the Limitation Act seeking condonation of delay of 246 days in filing the accompanying appeal.

As per contents of the application, the claimants/appellants were financially constrained and on account of which filing of the appeal was delayed. Further more counsel representing the applicant/appellants makes a statement that in the eventuality of the main appeal being allowed, the claimants/appellants would forgo interest on the enhanced amount of compensation, if any, for the period of delay that has occurred in filing the appeal.

In view of the averments made in the application and in the light of statement made by counsel, delay is condoned.

Application disposed of.

Main appeal

This is a claimants' appeal seeking enhancement of compensation.

Briefly, it may be noticed that a claim petition was preferred under Section 166 of the Motor Vehicles Act seeking compensation to the tune of Rs.25 lakhs on account of death of Rajbir Singh in a motor vehicle accident that took place on 13.08.2012. Claimants had asserted that deceased Rajbir Singh was proceeding on a motorcycle and was struck by a Chandigarh Transport Undertaking Bus bearing registration No.CH-01-G1-7556 and which was being driven by Ajay Sharma/respondent No.1 in a rash and negligent manner.

Claimants were the parents of the deceased.

Since the only issue involved in the instant appeal is with regard to quantum of compensation, I have heard counsel for the appellants as also counsel representing the contesting respondent Nos.2 and 3.

The Tribunal has assessed the income of the deceased to be Rs.6000/- per month and by taking his age as 31 years has applied a multiplier of 16. 50% deduction has been made towards personal and living expenses of the deceased. A lump sum amount of Rs.50,000/- has been awarded under the conventional heads of funeral expenses as also loss of love and affection. Total amount of compensation computed is Rs.6,26,000/-.

In the considered view of this Court, the compensation amount awarded by the Tribunal vide award dated 12.12.2013 would require to be re-visited in the light of parameters laid down by the ***Hon'ble Supreme Court in Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another 2009 (3) RCR (Civil) 77*** and ***National Insurance Company Limited Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009.***

Even though claimants had asserted that deceased was a 'driver' by profession and was earning Rs.12,000/- per month having been employed with M/s Gupta Electricals, Old Panchkula but no evidence had come forth to substantiate such plea. Under such circumstances, the Tribunal has assessed the monthly income of the deceased Rs.6000/- i.e. the minimum wages that were admissible to a skilled worker in relation to the date of accident. The same would not call for any interference.

Concededly, deceased was a bachelor. Tribunal has rightfully made 50% deduction in income towards personal and living expenses of the deceased.

Driving licence of the deceased had been adduced on record as Ex.P-3 which reflects his date of birth as 09.12.1981. Age of the deceased has rightfully been taken as 31 years and the multiplier has been correctly applied as 16 to the multiplicand.

The Tribunal, however, has completely overlooked the aspect as regards addition in income towards future prospects. Since the deceased was not a permanent Government employee and was below 40 years of age, an increase in income @ 40% is awarded towards future prospects by following the dictum laid down in ***Pranay Sethi's case (supra).*** The amount of Rs.50,000/- awarded under the conventional heads would stand scale down to Rs.30,000/- i.e. 15,000/- towards loss of estate and the like amount towards funeral expenses.

In view of the above, the amount of compensation is re-assessed and calculated as follows:-

Sr. No.	Head	Calculation
1.	Income Rs.6000/- p.m. (as assessed by the Tribunal)	Rs.6000/-
2.	Future prospects @ 40%	Rs.6000+2400=Rs.8400/-
3.	50% deduction towards personal and living expenses of the deceased	Rs.8400-4200=4200/- Rs. 4200 x 12=50,400/-
4.	Compensation after applying multiplier of 16	Rs. 50400 x 16=8,06,400/-
5.	Conventional Heads: loss of estate and funeral expenses	Rs.30,000/-
	Total	Rs.8,36,400/-

The afore-calculated enhanced amount be released in favour of the claimants along with interest @ 6% from the date of filing of the claim petition till actual realization.

It is, however, clarified that while computing interest so awarded the delay, period of 246 days in filing the instant appeal would be excluded.

Appeal is disposed of in the aforesaid terms.

13.09.2018 **(TEJINDER SINGH DHINDSA)**
vandana **JUDGE**
Whether speaking/reasoned Yes
Whether Reportable No