IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2764-2013 (O&M)
Date of decision: 01.03.2018

Smt. Ram Rati and ors. ... Appellants

VS

Raghbir & anr. ... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Ms. Bhagyashri, Advocate for
Mr. V.S.Bhardwaj, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for respondent No.2.

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Hari Pal Verma, J.(Oral)

CM-12535-CII-2013

Prayer in this application filed under Section 5 of Limitation Act is for condonation of delay of 18 days in filing the appeal.

For the reasons mentioned in the application, same is allowed and delay of 18 days in filing the appeal is condoned.

Main case

The claimant has filed the present appeal seeking enhancement of compensation over and above the amount awarded by the Motor Accident Claims Tribunal, Bhiwani (in short 'the Tribunal') vide award dated 04.01.2013.

The appellant had filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 for grant of compensation on account of death of Jagdish Parshad, aged about 33 years, in a Motor Vehiclular Accident, which took place on 17.01.2009. The Tribunal, after considering all aspects awarded a total compensation of Rs.4,23,200/- along with interest @ 6% per annum from the date of filing of the petition till its realisation. The deceased Jagdish Parshad was working as an Accountant in private company in Mumbai. In the claim petition, the claimant has claimed that the deceased was getting a salary of Rs.20,000/- per month, however, on the basis of Income Tax Return Ex.P-6 and P-7, the Tribunal has assessed the income of the deceased as Rs.6,000/- per month for the purpose of assessment of compensation.

Learned counsel for the appellant has argued that as per the Income Tax Return for the assessment year 2006-07, the income of the deceased was Rs.1,05,000/- per annum, but the Tribunal has assessed the income of the deceased as Rs.72,000/- per annum. She has further argued that amount awarded under the conventional heads is on the lower side and not as per the law settled by Hon'ble Supreme Court. The Tribunal has awarded an amount of Rs.20,000/- under conventional heads, whereas as per ***National Insurance Company Ltd. vs. Pranay Sethi, 2017 SCC 270,*** the appellant is entitled to Rs.70,000/- under conventional heads.

The Tribunal has given the recovery rights to the insurance company from the insured/owner of the vehicle. No one is present on behalf of respondent No.1 despite notice being published in the newspaper. Therefore, deemed to have been served in the case.

Learned counsel for respondent No.2 submits that adequate compensation has been awarded and there is no scope of further enhancement, except the amount under the conventional heads.

I have heard learned counsel for the parties.

This Court finds that as per ITR 2008-09, the income of the deceased has been shown as Rs.73,267/- per annum and therefore, the Tribunal has rightly assessed the income of the deceased as Rs.6,000/- per month. However, the Tribunal has awarded only an amount of Rs.20,000/- under the conventional heads, which is on the lower side. This Court finds that the claimants are entitled to an amount of Rs.70,000/- instead of Rs.20,000/- under the conventional heads. It is further ordered that the claimants are entitled to interest @ 7.5% per annum on the enhanced amount as per *Pranay Sethi's case(supra)* from the date of filing of petition till its realisation. Since no one has appeared on behalf of respondent No.1, the recovery right of respondent No.2 shall remain intact.

With this modification, the appeal is disposed of.

01.03.2018 **(HARI PAL VERMA)**
sonia **JUDGE**

Whether speaking/non-speaking? Yes/No
Whether reportable? Yes/No