

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

FAO-1291-2014 (O&M)
Date of Decision: 20.09.2018

Gulab Devi & others

--Appellants

Versus

Krishan & others

--Respondents

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

Present:- Ms. Bhavna Grewal, Advocate for
Mr. S.K. Yadav, Advocate for the appellants.

Mr. Kulwinder Singh, Advocate for
Mr. Sanjeev Goyal, Advocate for respondent no.3.

TEJINDER SINGH DHINDSA.J (Oral)

CM-4285-CII-2014

Instant application has been filed under Section 5 of the Limitation Act seeking condonation of delay of 404 days that has occurred in filing the instant appeal.

Notice in the application had been issued.

Counsel for the contesting respondent no.3/Insurance Company has chosen not to file any reply to the application. Counsel even does not seriously oppose the application. However, he submits that the period of delay may be excluded while awarding interest in the eventuality of any enhanced compensation being granted.

Keeping in view the averments made in the application and submissions made by counsel appearing for the contesting respondent no.3/Insurance Company, prayer is allowed.

Delay of 404 days in filing the appeal stands condoned.

Main Appeal

This is claimants' appeal seeking enhancement of

compensation.

Briefly, it may be noticed that a claim petition under Section 166 of the Motor Vehicle Act, 1988 was filed seeking compensation to the tune of Rs.30 lacs on account of death of Manjeet in a motor vehicle accident that took place on 30.5.2011. Claimants were the parents as also minor brother of the deceased. Claimants had asserted that while Manjeet was pillion riding a motorcycle, the motorcycle was struck by a pick-up vehicle bearing registration no. RJ-14 GC-6374 which was being driven by Krishan in a rash and negligent manner.

Claim petition having been contested, following issues were framed by the Tribunal:-

- “1. Whether Manjeet son of Sumer Singh died in a motor vehicular accident which took place on 30.05.2011 at about 11.30/12.00 noon in the revenue estate of village Mandola due to rash and negligent driving of vehicle Pick Up bearing No.RJ14-GC-6374 was driven by respondent no.1 owned by respondent no.2 and insured with respondent no.3? OPP.*
- 2. If Issue No.1 is proved, whether the petitioner is entitled to get compensation, if so to what amount and from whom?OPP*
- 3. Whether the vehicle in question was being driven by respondent no.1 in violation of terms and conditions of insurance company?OPR.*
- 4. Relief.”*

In so far as Issue No.1 is concerned, findings were returned in favour of the claimants and it was held that death of Manjeet took place on account of injuries suffered in an accident involving the insured/offending vehicle and which was being driven in a rash and negligent manner.

In so far as quantum of compensation is concerned, vide award dated 20.9.2012 passed by the M.A.C.T, Narnaul, a total compensation amount of Rs.5,32,904/- along with interest @ 6% per annum has been awarded in favour of claimant no.1 namely Gulab Devi i.e. mother 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 contesting respondent no.3-Insurance Company.

Counsel for the appellants has raised a limited submission with regard to the Tribunal having not awarded any addition in income towards future prospects and insufficient amount having been awarded under the conventional heads.

Per contra, counsel representing contesting respondent no.3 does not dispute that the compensation amount awarded would require to be enhanced as per parameters laid down by Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others, 2017(4) R.C.R (Civil), 1009.***

While computing the compensation amount, age of the deceased has been taken to be 18 years and monthly income has been assessed as Rs.4,888/- per month i.e. at par with the minimum wages admissible to a daily wager as on the date of accident. Such assessment is not being put to question by the appellants. No intervention in such regard is thus called for.

Deceased Manjeet was concededly a bachelor. Accordingly, the Tribunal has rightfully made a 50% deduction towards personal and

living expenses of the deceased. There is further no dispute with regard to age of the deceased being 18 years as on the date of accident.

Under such circumstances, the Tribunal has rightfully applied the multiplier of 18 to the multiplicand.

Tribunal has, however, overlooked the aspect with regard to addition in income towards future prospects.

Claimants had themselves stated that the deceased was self employed. Keeping in view the age of the deceased to be 18 years, 40% increase in income towards future prospects is granted by following the dictum laid down in *Pranay Sethi's* case (supra).

That apart, the Tribunal has only awarded a sum of Rs.5,000/- towards funeral expenses. Such amount would now stand enhanced to Rs.15,000/-. Further a sum of Rs.15,000/- is awarded towards loss of estate.

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

Sr. No.	Head	Calculation
1.	Income as assessed by the Tribunal	4,888/- per month
2.	40% increase in income towards future prospects	4,888+40%=6,843/-
3.	50% deductions towards personal expenses of the deceased.	6,843 ÷ 2 = 3,421/- 6,843-3,421 = 3,422/-
4.	Compensation after applying multiplier of 18	3,422x12 = 41,064/- 41,064x18 = 7,39,152/-
5.	Conventional heads (Rs.15,000/- for funeral expenses, Rs.15,000/- for loss of estate.	30,000/-
6.	Total	Rs.7,69,152/-

The afore-calculated/reassessed compensation amount along with interest @ 6% per annum from the date of filing of the claim petition till actual realization be released in favour of appellant no.1 Gulab Devi i.e. mother of the deceased.

It is, however, clarified that while calculating interest, the period of delay of 404 days in filing the present appeal would stand excluded.

Appeal is allowed in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

20.09.2018

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No