

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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**CM-13897-CII of 2013 in/and
FAO No. 3391 of 2013 (O&M)
Date of Decision : 08.10.2018**

Bharat Singh and another

..... Appellants

Versus

Samay Singh and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Jagat Singh, Advocate
for the applicants-appellants.

Mr. M.B.Jain, Advocate
for respondent No.3-insurance company.

AJAY TEWARI, J. (Oral)
CM-13897-CII of 2013

This application has been filed under Section 5 of the Limitation Act for the condonation of delay of 724 days in refiling the appeal.

Reply on behalf of respondent No.3 to the application for condonation of delay has been filed and the same is taken on record.

For the reasons recorded, the application is allowed and the delay of 724 days is condoned subject to the condition that in the event of enhancement the applicants-appellants would not be entitled to any interest for the period of delay.

FAO No. 3391 of 2013

This is an appeal for enhancement of compensation and for modifying the award dated 14.02.2011 passed by the Motor Accident

Claims Tribunal, Palwal granting compensation of Rs.4,10,610/- alongwith interest @ 9% per annum in favour of the appellants and against the respondents.

The brief facts of the case are that on 28.10.2008 Ravinder (since deceased) was going to his house in a three-wheeler bearing registration No.HR-52D-0118 alongwith other passengers. The driver of three-wheeler i.e. respondent No.1 was driving at very high speed in a rash and negligent manner. At about 10.30 a.m. when the said vehicle reached near Ghasi Ram Panna Lal Petrol Pump near Police Station Chandhut on Palwal-Aligarh Road, respondent No.1 lost his control and struck in a Mahindra Tractor which was coming from front side. Due to the impact the vehicle turned turtle and the deceased sustained serious and grievous injuries and died in the hospital. Claim petition was filed. The Tribunal held that the accident had been caused by the rash and negligent driving of the respondent No.1 and ordered the compensation as mentioned above.

I find that the income of Rs.3,600/- per month is too low. Wages for a skilled labourer as per the minimum wages prescribed at that relevant time in Haryana were Rs.3,664/- per month say Rs.3,700/-. Consequently, income is taken to be Rs.3,700/-. He has further has argued that in view of the judgment passed in ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009***, 40% had to be awarded on account of future prospects. Counsel for respondent No.3-insurance company is not in a position to deny this. I find this to be indeed so and it is held that 40% has to be awarded towards future prospects. The dependency would remain the same.

Further counsel for the appellants has argued that the Tribunal has awarded Rs.18,000/- under conventional heads and as per the judgment passed in ***Sureshchandra Bagmal Doshi & anr. Vs. The New India Assurance Company Limited & ors, 2018(2) RCR (Civil) 841 and Magma General Insurance Company Ltd., Vs. Nanu Ram @ Chuhru Ram & ors., Civil Appeal No.9581 of 2018 arising out of SLP (Civil) No.3192 of 2018 decided on 18.09.2018***, filial consortium had to be granted. Keeping that in mind the total contribution under conventional heads would have been Rs.1,10,000/-. I find this to be indeed so. Consequently, I grant Rs.92,000/- more under conventional heads.

Counsel for the appellants states that interest @9% per annum has been awarded whereas in ***Magma General Insurance Company Ltd. supra***, the Supreme Court had awarded interest @12% per annum. In the circumstances, the entire compensation would carry interest @12% per annum. Rest of the award shall remain the same.

Appeal is allowed in the above terms and the award is modified accordingly.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

08.10.2018
pooja sharma-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No