208

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1898-2014 (O&M)
Date of decision : 17.01.2018

Jaswant Singh and others

... Appellant(s)

Versus

Ram Mehar and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vishwajit Bedi, Advocate
for the appellant(s).

Mr. S.S. Kharb, Advocate
for respondent No.1.

Mr. D.R. Bansal, Advocate
for respondent No.2.

Ms. Vandana Malhotra, Advocate
for respondent No.4.

****

AMIT RAWAL, J. (ORAL)

CM-6659-CII-2014

For the reasons stated in the application, which is duly supported by an affidavit, the application is allowed and the delay of 303 days' in filing the appeal is condoned.

CM-6660-CII-2014

For the reasons stated in the application, which is duly supported by an affidavit, the application is allowed and the delay of 190 days' in refiling the appeal is condoned.

FAO-1898-2014

The present appeal has been preferred by the claimants being the parents and three minor sons of Raj Pal @ Raju, who died in a motor accident occurred on 28.04.2008, for enhancement of compensation against the Award passed by the Tribunal, whereby a compensation of ₹3,80,000/- along with interest @ 9% per annum, had been awarded.

Learned counsel appearing on behalf of the appellants-claimants submits that the Tribunal has awarded the compensation to the tune of ₹3,80,000/- , which is on lower side as the Tribunal took the income of the deceased as ₹3,000/-. The Tribunal has wrongly applied the multiplier of '15', whereas it should have '17'. Moreover, no increase was made in the salary towards future prospects and the amount of ₹8,000/- towards loss of consortium, ₹2,000/- on account of funeral expenses and ₹10,000/- towards medical expenses, is also too meagre, thus, there is scope for enhancement.

On the other hand, learned counsel appearing on behalf of the Insurance Company submits that the Tribunal has taken care of all the heads sufficiently and there is no scope for further enhancement, thus, urges this Court for dismissal of the appeal.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is a scope of enhancement as the compensation to the tune of ₹3,80,000/- is on lower side and accordingly, I take the income of the deceased as ₹3,600/- per month and provide 30% future prospects and apply a multiplier of '17' instead of 15, much less, deduction of $1/4^{th}$ to assess the loss of dependency as ₹7,16,040/-. I also provide an amount of ₹10,000/- towards medical expenses as awarded by the Tribunal. However, I will further add to it ₹70,000/- towards conventional heads i.e. loss of consortium, loss of estate and funeral expenses as per the latest judgment dated 31.10.2017 rendered by Hon'ble the Supreme Court in ***SLP (Civil) No.25590 of 2014*** titled as ***"National Insurance Company Ltd. V/s Pranay Sethi and others".***

In all the compensation payable shall be ₹7,96,040/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @ 6% per annum from the date of filing of the appeal till its realization. However, the appellants-claimants shall not be entitled to interest for a period of 303 days i.e. delay in filing the appeal. The enhanced amount shall be distributed amongst the appellants-claimants and proforma respondent No.5 being widow in the ratio of 1:1:2:2:2:2. The liability shall remain the same as has already been determined by the Tribunal.

The award passed by the Tribunal is modified to the above extent and the appeal stands allowed.

(AMIT RAWAL)
JUDGE

17.01.2018
Yogesh Sharma

✓
Whether speaking/reasoned **Yes/ No**

✓
Whether Reportable **Yes/ No**