

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

230

FAO No.1451 of 2016 (O&M)

Date of decision: 28.03.2018

NEHA ARORA AND ORS.

... Appellants

Versus

GURPAL SINGH AND ORS.

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Varun Dhawan, Advocate for
Mr. K.R. Dhawan, Advocate
for the appellants.

Mr. Raj K. Rathore, Advocate
for respondents No.2 and 3.

None for respondent No.4.

REKHA MITTAL, J. (Oral)

CM-5191-CII-2016

Prayer in this application is for condonation of delay of 216 days in filing the appeal.

In view of the averments made in the application supported by affidavit of Smt. Neha Arora, daughter of the deceased coupled with that the provisions of Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 216 days in filing the appeal is condoned subject to the condition that the claimants shall forgo interest for the period of delay in case compensation is

enhanced.

Main Case

The claimants are in appeal seeking enhancement of compensation on account of death of Ashwani Kumar in a motor vehicular accident that took place on 29.06.2012.

The Tribunal has awarded compensation of Rs.32,78,286/-, detailed in paras 17 and 18 of the award, extracted thus:-

1. Monthly income of the deceased	Rs.28,669/-
2. Multiplier	14
3. Deduction for personal expenses	1/3 rd
4. Loss of income	Rs.32,10,986/-
5. Expenses on funeral	Rs.25,000/-
6. Medical expenses	Rs.17,302/-
7. Loss of love and affection	Rs.25,000/-

The sole submission made by counsel for the appellants is that the Tribunal has not allowed benefit of increase in income for future prospects and they are entitled to addition @ 30% as the deceased was 41 years old and an employee of the Punjab Government being Head Constable.

Counsel for respondents No.2 and 3 has not made any submissions to controvert plea of the claimants.

The insurance company failed to contest the appeal, despite service.

Contention raised by counsel for the appellants for addition in income qua future prospects @ 30% is tenable in the light of latest

judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**. Deduction for personal expenses and multiplier adopted by the Tribunal are affirmed. In this manner, loss of dependency comes to Rs.41,74,206/- (Rs.28,669 x 12 x 14) + (30% future prospects) – (1/3rd deduction for personal expenses). The amount of Rs.17,302/- towards medical expenses allowed by the Tribunal is affirmed.

Compensation awarded under conventional heads is modified to the effect that claimants shall be entitled to Rs.30,000/- i.e. Rs.15,000/- for expenses on funeral and Rs.15,000/- for loss of estate.

Total compensation is Rs.42,21,508/- and the additional amount is Rs.9,43,222/- (42,21,508 – 32,78,286), payable with interest @7.5% per annum from the date of petition till realization except for the period of delay, to claimants No.1 and 2 in the ratio 40:60.

The appeal is partly allowed in the aforesaid terms.

(REKHA MITTAL)
JUDGE

28.03.2018
ashok

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No