# IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 2724 of 2015 (O&M)
Date of decision: 16.07.2018

*Birmati and others* ........*Appellants*

*Versus*

*Ram Lal and others* .......*Respondents*

**Coram:** **Hon'ble Mrs. Justice Rekha Mittal**

-.-

Present: Mr. Arvind Kumar Yadav, Advocate
for the appellant

None for respondents No. 1 and 2

Mr. Neeraj Khanna, Advocate
for the insurance company

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**Rekha Mittal, J.** (Oral)

CM 8387 CII of 2015

Prayer in this application is for condoning delay of 215 days in re-filing the appeal.

In view of averments made in the application supported by an affidavit of counsel for the applicants/appellants and arguments advanced, the application is allowed and delay of 215 days in re-filing the appeal stands condoned, subject to condition that in case the applicants/appellants succeed in appeal, they will forgo interest for the period of delay.

CM 8388 CII of 2015

Prayer in this application is for condoning delay of 189 days in filing the appeal.

In view of averments made in the application supported by an affidavit of one of the applicants/appellants and arguments advanced, the application is allowed and delay of 189 days in filing the appeal stands condoned, subject to condition that in case, the applicants/appellants succeed in appeal, they will forgo interest for the period of delay.

Main case

The claimants are in appeal seeking enhancement of compensation on account of death of Birender in a motor vehicular accident that took place on 16.05.2011.

The Tribunal has awarded compensation of Rs.6,51,414.00, detailed hereunder:-

| | |
|---|---|
| Monthly income of the deceased | Rs.4,200.00 |
| Deduction for personal expenses | 1/4th |
| Multiplier | 14 |
| Loss of dependency | Rs.5,29,200.00 |
| Loss of consortium | Rs.5,000.00 |
| Last rites expenses | Rs.3,000.00 |
| Medical expenses | Rs1,14,232.00 |

The Tribunal has assessed income of the deceased at Rs.4,200.00 per month. Taking a clue from minimum wage available at the relevant time, income of the deceased is assessed at Rs.4,500.00 per month. The claimant shall be entitled to benefit of addition in income for future prospects at the rate of 25%. Multiplier adopted by the Tribunal is correct and affirmed. The Tribunal has allowed deduction for personal expenses to the tune of 1/4th. Application for compensation has been filed by the widow, major daughter, minor son and father of the deceased aged about 65 years. Counsel for the appellants has failed to point out any material on record that father of the deceased was suffering from any ailment/disability to render him dependent upon his son. Under the circumstances, admissible deduction for personal expenses would be 1/3rd. Compensation for medical expenses allowed by the Tribunal is affirmed.

In this manner, loss of dependency comes to Rs.6,30,000.00, detail hereunder:-

| | |
|---|---|
| Monthly income of the deceased | Rs.4,500.00 |
| Multiplier | 14 |
| Loss of dependency | Rs.7,56,000.00 i.e. 4500x12x14 |
| Addition in income @ 25% | Rs.1,89,000.00 |
| Deduction for personal expenses | 1/3rd i.e. Rs.3,15,000.00 |
| Total dependency | Rs.6,30,000.00 i.e. 7,56,000 + 1,89,000 - 3,15,000) |

Under conventional heads, claimants shall be entitled to Rs.70,000.00, in the light of judgment of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SC 1270***, detailed hereunder:-

| | |
|---|---|
| Loss of consortium to widow | Rs.40,000.00 |
| Expenses of funeral and last rites | Rs.15,000.00 |
| Loss of estate | Rs.15,000.00 |

Total compensation comes to Rs.8,14,232.00 (Rs.6,30,000.00 + Rs.1,14,232.00 (medical expenses) + Rs.70,000.00) and additional amount is Rs.1,62,818.00 (Rs.8,14,232.00 – Rs.6,51,414.00) payable with interest at the rate of 7.5% per annum from the date of petition till realization except for the period of delay in re-filing as well as filing the appeal.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

16.07.2018
mohan bimbra

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No