In the High Court of Punjab and Haryana at Chandigarh

FAO- 5123 of 2013(O&M)
Date of Decision:4.4.2018

Sunita and others

---Appellants

vs.

Anoop Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

***

Present: Mr.Amit Singla, Advocate
for the appellants

Ms. Vandana Malhotra, Advocate
for the Insurance company

***

<u>Rekha Mittal, J.</u>

<u>CM No.21624-CII of 2013</u>

Prayer in this application is for condoning delay of 240 days in refiling the appeal.

In view of averments made in the application and arguments advanced, application is allowed and delay of 240 days in refiling the appeal stands condoned.

Disposed of accordingly.

<u>FAO No. 5123 of 2013</u>

The claimants are in appeal seeking enhancement of compensation in regard to death of Raj Kumar in a motor vehicular accident that took place on 9.2.2011.

The Motor Accidents Claims Tribunal, Hissar (in short “the Tribunal”) has awarded compensation of Rs. 7,08,500/-, detailed hereunder:-

Monthly income of the deceased	Rs. 4500/-
Deduction for personal expenses	1/4th
Multiplier	17
Loss of dependency	Rs. 6,88,500/-
Expenses on transportation and last rites	Rs. 10,000/-
Loss of consortium	Rs. 10,000/-

Counsel for the appellants would argue that the claimants are entitled to benefit of increase in income for future prospects @ 40%. Adequate compensation may be allowed under conventional heads. Income of the deceased assessed by the Tribunal is on lower side and needs enhancement.

Counsel representing the insurance company has supported the award.

The deceased was 30 years old and left behind family consisting of his widow and three minor children and parents. There is no clear evidence on record with regard to income of the deceased. As per the minimum wage available at the relevant time to an unskilled worker, the Tribunal has rightly assessed income of the deceased at Rs. 4500/- per month. However, the claimants shall be entitled to addition in income for future prospects @ 40% in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270**. Deduction for personal expenses and multiplier applied by the Tribunal are affirmed. In this manner, loss of dependency comes to Rs. 9,63,900/- i.e. (4500 x 12 x17 + 40% - 1/4th).

Under conventional heads, claimants shall be entitled to Rs. 70,000/- in the light of latest judgment of Hon'ble the Supreme Court **Pranay Sethi and**

others' case (supra), detailed hereunder:-

Loss of consortium to widow	**Rs. 40,000/-**
Expenses on funeral	**Rs. 15,000/-**
Loss of estate	**Rs. 15,000/-**

Total compensation is **Rs. 10,33,900/-** and the additional amount is Rs. 3,25,400/-(10,33,900 -7,08,500), payable with interest @ 7.5% per annum from the date of petition till realization to the widow and minor children of the deceased in the ratio 40:15:15:30. The amount falling to share of the minors shall be invested in fixed deposits, payable on their attaining age of majority or for a period of three years, whichever is later. The interest accruing on the FDRs shall be payable to mother of the minors for meeting expenses on their education and living.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

4.4.2018
paramjit

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