IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4592-2014 (O&M)
Date of decision : 23.01.2018

Smt.Bhoola Devi and others ... Appellant(s)

Versus

Tanvir Ahmed and others ... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.Vaibhav Sehgal, Advocate,
for the appellants.

Mr.Sanjeev Goel, Advocate,
for respondent No.3.

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AMIT RAWAL, J. (ORAL)

CM No.12976-CII of 2014

For the reasons mentioned in the application, which is supported by an affidavit, delay of 648 days in filing the appeal is condoned.

CM stands disposed of.

FAO No.4592 of 2014

The present appeal has been preferred by the legal representatives of Suresh, who died in a motor accident occurred on 31.1.2010, for enhancement of compensation against the award passed by the Tribunal, whereby a compensation of ₹6,42,000/- along with interest @ 7% per annum, had been awarded.

Mr.Vaibhav Sehgal, learned counsel appearing on behalf of the appellants-claimants submits that the Tribunal has awarded the compensation to the tune of ₹6,42,,000/-, which is on lower side. The deceased was working as a Clerk/Munshi with an Advocate and was earning ₹20,000/- per month, but the Tribunal took the income of the deceased as ₹4,500/- per month. Moreover, no increase was made in the salary towards future prospects. The amount of ₹10,000/- towards loss of consortium, ₹10,000/- on account of loss of estate and ₹10,000/- towards loss of funeral expenses is also too meager. Even no compensation for medical expenses, transportation and loss of love and affection has been awarded, thus, there is scope for enhancement.

On the other hand, Mr.Sanjeev Goel, learned counsel appearing on behalf of respondent No.3-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 ₹6,42,000/- is on lower side. Accordingly, I take the income of the deceased as ₹96,000/- per annum (₹8,000/- per month) and provide 40% future prospects and apply a multiplier of '15', much less, deduction of ¼th to assess the loss of dependency as ₹15,12,000/-. 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 15,82,000/-. 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 shall not be entitled to interest for the period of delay in filing the appeal. The enhanced amount shall be distributed amongst the appellants-claimants in the ratio of 1:2:2:2. 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

January 23, 2018
ramesh

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**