IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2010 of 2016 (O&M)
Date of decision: 30.05.2018

Mahipal Singh and others ... Appellants

Versus

Amar Singh Rana and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Ms. Manpreet Ghuman, Advocate for the appellants.
Mr. Amit Jaiswal, Advocate for respondent No.3.

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REKHA MITTAL, J. (Oral)

CM No.7720-CII of 2016

Prayer in this application is for condonation of delay of 139 days in filing the appeal.

In view of averments made in the application supported by affidavit of Smt. Rajwanti, one of the claimants coupled with that the provisions of Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 139 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 Gulzari Lal in a motor vehicular accident that took place on 31.12.2011.

The Tribunal has awarded compensation of Rs.5,11,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.4500/-
2. Multiplier	18
3. Deduction for personal expenses	50%
4. Loss of dependency	Rs.4,86,000/-
5. Expenses on funeral	Rs.25,000/-

The plea of claimants is that the deceased was earning Rs.4500/- per month. However, while leading evidence, claimants examined Radhey Shyam, owner of Nursery PW4 to prove avocation and income of the deceased. He would depose that Gulzari Lal (since deceased) was his employee and getting salary Rs.7500/- per month. He produced salary certificate Ex.P8 and visiting card of the deceased Ex.P9. However, the salary certificate brought by the witness is not supported by any records maintained by Radhey Shyam. There is no material on record to prove financial status of Radhey Shyam much less actual payment of Rs.7500/- per month to Gulzari Lal. Income of the deceased assessed by the Tribunal is more than minimum wage available at the relevant time. In view of the above, I do not find any reason to differ with findings of the Tribunal assessing income of the deceased at Rs.4500/- per month.

Counsel for the insurance company would argue that multiplier should be applied on the basis of age of parents of the deceased by referring to judgment of Hon'ble the Supreme Court **New India Assurance Co. Ltd.**

Vs. Shanti Pathak (Smt.) and others (2007)10 SCC 1.

Claimants shall be entitled to benefit of future prospects @40%. Deduction for personal expenses and multiplier adopted by the Tribunal are correct and affirmed. In this context, reference can be made to judgments of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77, National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270 and Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315.** In this manner, loss of dependency comes to Rs.6,80,400/- [(Rs.4500 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

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

Total compensation is Rs.7,10,400/- and the additional amount is Rs.1,99,400/- (7,10,400 - 5,11,000), payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 139 days in filing the appeal.

The appeal is partly allowed in the aforesaid terms.

30.05.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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