IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 5370 of 2013 (O & M)
Date of Decision:-06.02.2018

Khasedur Rehman and another

...Appellants

Versus

Lalit Kumar and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. P.R. Yadav, Advocate
for the appellants.

Mr. Rajbir Singh, Advocate
for respondent No.3-Insurance Company.

AMIT RAWAL J.(Oral)

CM No.22873-CII of 2013

Heard on application for condonation of delay in filing of appeal.

In view of the grounds mentioned in the application for condonation of delay and in the light of settled position that a litigant cannot be denied access to justice on hyper technical grounds and in the interest of justice taking a lenient view, delay of 98 days in filing the appeal stands condoned.

CM stands disposed of.

FAO No.5370 of 2013

The present appeal has been preferred by the claimants being the parents of Haider Ali, who died in a motor accident occurred on 10.1.2012, for enhancement of compensation against the Award passed by the Tribunal, whereby a compensation of ₹3,44,200/- along with interest @ 7.5% per annum, had been awarded.

Learned counsel appearing on behalf of the appellants-claimants submits that the Tribunal has awarded the compensation to the tune of ₹3,44,200/-, which is on lower side as the Tribunal took the income of the deceased as ₹4200/-PM. The Tribunal has wrongly applied the multiplier of '5', whereas it should have '18'. Moreover, no increase was made in the salary towards future prospects, much less, no compensation towards conventional heads has been granted, thus, there is scope for enhancement.

On the other hand, learned counsel appearing on behalf of the 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 ₹3,44,200/- is on lower side and accordingly, I take the income of the deceased as ₹4,200/- per month and provide 40% future prospects and apply a multiplier of '18' instead of '5', much less, deduction of 1/2 to assess the loss of dependency as ₹6,35,040/-. However, I will further add to it ₹30,000/- towards conventional heads i.e.

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 ₹6,65,040/-. 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. The enhanced amount shall be distributed amongst the appellants-claimants in equal shares. The liability shall remain the same as has already been determined by the Tribunal.

The appeal stands allowed.

February 06, 2018 **(AMIT RAWAL)**
Vijay Asija **JUDGE**

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No