IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 3144 of 2015
Date of Decision: 02.11.2018

Samta and another ...Appellants

VERSUS

Ashok Kumar and others ...Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. G.C. Shahpuri, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent no. 3.

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SURINDER GUPTA, J.(Oral)

CM-9394-CII-2015

Heard. There is delay of 234 days in filing the appeal.

Learned counsel for the applicants-appellants submits that due to untimely death of husband of applicant-appellant no. 1, there was no earning member in the family and due to financial restraints she could not file the appeal in time.

Instant application is supported by affidavit, the same is allowed and delay of 234 days in filing the appeal is condoned.

FAO No. 3144 of 2015

For death of Rakesh Arya, aged 28 years, in a motor vehicle accident with bus bearing registration no. DL-1PC-1663, the Motor Accident Claims Tribunal, Panchkula (later referred to as 'the Tribunal') awarded compensation of ₹32,10,000/-, which was computed as follows:-

(i)	Name of the deceased	Rakesh Arya
(ii)	Age of the deceased	28 years
(iii)	Occupation	Self employed (Sub Contractor)
(iv)	Income assessed by the Tribunal	₹15000 per month

(v)	50% of (iv) above added in income of the deceased	(₹15000+7500) = ₹22500 per month
(vi)	Income of the deceased after applying deduction of 1/3rd	(₹22500-7500) = ₹15000 per month
(vii)	Compensation calculated after applying the multiplier of 17	(₹15000X12X17) = ₹3060000
(viii)	Compensation for loss of consortium	₹100000
(ix)	Compensation for loss of estate	₹25000
(x)	Compensation for funeral expenses	₹25000
	Total	**₹3210000**

2. Learned counsel for appellants submits that the deceased was getting ₹44000/- per month as rent for the hydra crane from C&C Construction Limited, as such, income of the deceased as taken by the Tribunal is on lower side.

3. The Tribunal has taken income of the deceased from his last income tax return, which is stated to have been filed after death of the deceased. The last income tax return shows income of the deceased as ₹1,76,000/- per annum, which was taken by the Tribunal as ₹1,80,000/- per annum. As per law settled by Hon'ble Apex Court in case of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009***, claimants are entitled to 40% addition in income of the deceased towards future prospects, which has been allowed as 50% by the Tribunal.

4. Compensation towards loss of consortium, loss of estate and funeral expenses has been allowed as ₹1,50,000/- in place of ₹70,000/- as per law settled by Hon’ble Apex Court in case of ***Pranay Sethi (supra).***

5. Learned counsel for respondent no. 3-Insurance Company argues that compensation awarded by the Tribunal is already on higher side, as such addition in income of the deceased is to be reduced to 40% of his

income and compensation under the conventional heads is to be awarded as ₹70,000/- in place of ₹1,50,000/-.

6. This appeal has been filed by claimants seeking enhancement of compensation. Respondents have not filed any appeal or counter claim seeking reduction of the compensation, as such, the amount of compensation as awarded by the Tribunal cannot be reduced. I find no reason to enhance the compensation as already awarded by the Tribunal.

7. This appeal has no merit and the same is dismissed.

(SURINDER GUPTA)
JUDGE

November 02, 2018
jk

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***