IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 333 of 2015 (O&M)
Date of decision: 01.03.2018

Krishna and others .... *Appellants*

Versus

Ram Singh and others ....*Respondents*

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr. Sunny Namdev, Advocate
for the appellants

Mr. Sandeep Kotla, Advocate
for respondent No. 2

None for respondent No. 3

Mr. Punit Jain, Advocate
for respondent No. 5

-.-

Rekha Mittal, J.

CM 866 CII of 2015

Prayer in this application is for condoning delay of 186 days in filing the appeal.

In view of averments made in the application supported by an affidavit and arguments advanced by counsel for the parties, application is allowed and delay of 186 days in filing the appeal stands condoned, subject to the condition that in case, the appellants succeed in appeal, they will forgo interest for the period of delay.

CM 865 CII of 2015

Prayer in this application is for condonation of delay of 796 days in re-filing the appeal.

In view of averments made in the application supported by an affidavit and arguments advanced, application is allowed and delay of 796 days in re-filing the appeal stands condoned subject to the condition that in case, the appellants succeed in appeal, they will forgo interest for the period of delay.

Main case

The claimants are in appeal seeking enhancement of compensation on account of death of Ajit Singh in a motor vehicular accident that took place on 04.10.2009.

The Tribunal has awarded compensation of Rs.7,45,000.00, detailed hereunder:-

Monthly income of the deceased	Rs.4,500.00
Multiplier	18
Deduction for personal expenses	¼
Loss of dependency	Rs.7,29,000.00
Funeral expenses	Rs.6,000.00
Loss of estate	Rs.5,000.00
Loss of consortium	Rs.5,000.00

Counsel for the appellants would contend that the claimants are entitled to benefit of increase in income for future prospects at the rate of 40%. Compensation allowed under conventional heads needs enhancement.

As the insurance company has been held liable to pay compensation without any right of recovery, service of respondent No. 1 is dispensed with.

There is no representation on behalf of respondent No. 3, earlier being represented by a counsel. However, counsel for respondent No. 5 would state that he is representing Shri Ram General Insurance Company Limited but the said company has not been fastened with liability to pay compensation.

Contention raised by counsel for the appellants for grant of benefit of increase in income to the extent of 40% is meritorious in the light of judgment ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SC 1270***. The Tribunal has applied multiplier of 18 and deduction for personal expenses to the extent of $1/4^{th}$. As the deceased was 23 years old, multiplier applied is liable to be affirmed and ordered accordingly.

The application for compensation was filed by the widow, minor son, mother and minor sister and father of the deceased. The father of the deceased is stated to be 48 years old. Counsel for the claimants has failed to point out any material on record that father of deceased can be said to be dependent upon earning of his son. That being so, Neelam aged about 17 years minor sister of the deceased would not be dependent on his earning. In the given circumstances, admissible deduction for personal expenses would be $1/3^{rd}$ in place of $1/4^{th}$.

In view of the above, loss of dependency comes to **Rs.9,07,200.00** *i.e.* Rs.9,72,000.00 (Rs.4,500 x 12 x 18) + Rs.3,88,800.00 (40% future prospects) – Rs.4,53,600.00 ($1/3^{rd}$ deduction).

Under conventional heads, claimants shall be entitled to Rs.70,000.00, in the light of judgment of Hon'ble the Supreme Court ***in Pranay Sethi's*** case (supra), detailed hereunder:-

Loss of consortium to widow	Rs.40,000.00
Expenses of funeral and last rites	Rs.15,000.00
Loss of estate	Rs.15,000.00

Total compensation comes to **Rs.9,77,200.00** (Rs.9,07,200.00 + Rs.70,000.00) and additional amount is **Rs.2,32,200.00** (Rs.9,77,200.00 -

Rs.7,45,000.00) payable with interest at the rate of 7.5% per annum from the date of petition till realization except for the period of delay in filing and re-filing the appeal. Out of the additional amount, Rs.50,000.00 shall be paid to the widow and remaining amount to the child. The amount falling to share of the child shall be invested in Fixed Deposit for a period of three years or till he attains the age of majority whichever is later. However, interest on fixed deposit shall be payable to his (child's) mother for meeting his expenses.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

01.03.2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No