

In the High Court of Punjab and Haryana at Chandigarh

FAO- 5080 of 2014(O&M)

Date of Decision: 7.2.2018

Smt. Rahishan and others

---Appellants

versus

Talim and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Baljinder Singh, Advocate
for Mr. Ashish Gupta, Advocate for the appellants
None for respondent No. 1
Mr. Pardeep Kumar, Advocate, for the insurance company

Rekha Mittal, J.

CM No.14411-CII of 2014

Prayer in this application is for condoning delay of 106 days in filing the appeal.

In view of averments made in the application coupled with the factum that provisions of the Motor Vehicles Act for grant of compensation are meant to enhance social justice and save the victim family from the financial loss caused due to accident, the application is allowed, delay of 106 days in filing the appeal stands condoned subject however, to the condition that in case the compensation is enhanced, the applicants-appellants shall not be entitled to interest for the period of delay.

Disposed of accordingly.

FAO- 5080 of 2014

The claimants are in appeal seeking enhancement of compensation on account of death of Muddin in a motor vehicular accident that took place on 29.4.2011.

Respondent No. 1 has been served but remains unrepresented.

The Motor Accidents Claims Tribunal, Nuh (in short “the Tribunal”) has awarded compensation of Rs. 9,15,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.5500/-
Deduction for personal expenses	1/6 th
Multiplier	16
Loss of dependency	Rs. 8,80,000/-
Transportation and last rites	Rs. 25,000/-
Loss of consortium	Rs. 10,000/-

Counsel for the claimants has submitted that the Tribunal has not allowed benefit of increase in income for future prospects. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company has supported assessment made by the Tribunal with the plea that adequate compensation has been allowed.

The deceased left behind family consisting of his widow, five minor children and parents. The Tribunal has assessed his income at Rs. 5500/- per month by treating him as a labour. Claimants are entitled to increase in income for future prospects @ 40%. The Tribunal has wrongly applied deduction of 1/6th in place of 1/5th for personal expenses of the deceased. However, multiplier adopted by the Tribunal is affirmed. In this manner, loss of dependency comes to Rs. 5500 x 12x 16= 10,56,000 +4,22,400= 14,78,400 -2,95,680=**Rs.11,82,720/-**.

Under conventional heads, claimants shall be entitled to following compensation in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and**

others 2017 SCC 1270:-

Loss of consortium to widow	Rs. 40,000/-
Expenses on funeral	Rs. 15,000/-
Loss of estate	Rs. 15,000/-

The total compensation comes to Rs. 12,52,720/- and the additional amount is **Rs. 3,37,720/-** (12,52,720 – 9,15,000), payable with interest @ 7.5% per annum from the date of petition till realization to minor children of the deceased in equal proportion to be kept in fixed deposits till they attain the age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

7.2.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No