

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No.261 of 2016 (O&M)

Date of decision: 24.04.2018

RUBY AND ORS

... Appellants

Versus

SOHAL LAL AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Arun Sharma, Advocate
for the appellants.

Mr. Kulwinder Singh, Advocate for
Mr. Sanjeev Goyal, Advocate
for respondent No.3.

REKHA MITTAL, J. (Oral)

CM-755-CII-2016

Prayer in this application is for condonation of delay of 288 days in filing the appeal.

In view of the averments made in the application supported by affidavit of Smt. Ruby, widow of the deceased coupled with that the provisions of Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 288 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 Beer Singh in a motor vehicular accident that took place on 02.10.2013.

The Tribunal has awarded compensation of Rs.9,04,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.6000/-
2. Multiplier	16
3. Deduction for personal expenses	1/4 th
4. Loss of dependency	Rs.8,64,000/-
5. Expenses on transportation, funeral & last rites	Rs.20,000/-
6. Loss of consortium	Rs.20,000/-

Counsel for the appellants would argue that the deceased was working as a driver with Madan Singh PW3 at salary of Rs.12,500/- per month. He was 30 years old, therefore, appropriate multiplier should be 17. Claimants are entitled to benefit of future prospects @ 40%. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company has supported assessment made by the Tribunal with the plea that the Tribunal has rightly rejected testimony of Madan Singh PW3 qua avocation and income of the deceased. In the postmortem report, deceased is stated to be 35 years old and there is no other documentary evidence with regard to age much less date of birth of the deceased.

The Tribunal in para 12 of the award has dealt with question of

income of the deceased. Madan Singh PW3 was examined to prove that deceased was working as a driver at salary of Rs.12,500/- per month with him. Indisputably, claimants have not produced driving licence of Beer Singh. There is nothing on record to show financial status of Madan Singh to engage Beer Singh as a driver at salary of Rs.12,500/- per month. Under the circumstances, the Tribunal has rightly assessed income of the deceased at Rs.6000/- per month by taking a clue from the notification issued by the State of Haryana with regard to minimum wage. Deduction for personal expenses is affirmed.

Counsel for the claimants has not disputed that there is no document on record to prove date of birth of the deceased when otherwise postmortem report has been relied upon by the claimants wherein deceased is stated to be 35 years old. Accordingly, multiplier adopted by the Tribunal cannot be faulted with. Claimants shall be entitled to benefit of future prospects @ 40% as the deceased was less than 40 years of age. In this manner, loss of dependency comes to Rs.12,09,600/- (Rs.6000 x 12 x 16) + (40% future prospects) – (1/4th deduction for personal expenses).

Under conventional heads, claimants shall be entitled to Rs.70,000/-, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

Total compensation is Rs.12,79,600/- and the additional amount is Rs.3,75,600/- (12,79,600 – 9,04,000), payable with interest

@7.5% per annum from the date of petition till realization except for the period of delay of 288 days in filing the appeal. The additional amount shall be payable to the widow and minor children of the deceased in the ratio 30:35:35. The share of minors shall be invested in fixed deposits payable on their attaining age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

24.04.2018

ashok

(REKHA MITTAL)
JUDGE

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