In the High Court of Punjab and Haryana at Chandigarh

FAO No. 5427 of 2014(O&M)
Date of Decision: 06.07.2018

Harbans Kaur and another

---Appellants

versus

Harchand Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: None for the appellants

None for respondent No. 2

Mr. Harjinder Singh, Advocate,
for respondent No. 3

***

Rekha Mittal, J.

CM No.15092-CII of 2014

Prayer in this application is for condoning delay of 255 days in filing the appeal.

In view of averments made in the application supported by affidavit of Harbans Kaur, appellant coupled with that provisions of the Motor Vehicles Act for grant of compensation are benevolent social legislation to save the victim family from the financial loss caused due to accident, the application is allowed, delay of 255 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.

Main case

The claimants are in appeal seeking enhancement of compensation on account of death of Palwinder Singh in a motor vehicular accident that took place on 25.1.2004.

The Motor Accidents Claims Tribunal, Ludhiana (in short "the Tribunal") has awarded compensation of Rs.2,36,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 4000/-
Deduction for personal expenses	50%
Multiplier	9
Loss of dependency	2,16,000/-
Funeral expenses	Rs. 5,000/-
Loss of love and affection	Rs. 10,000/-
Loss of love and affection	Rs. 5000/-

The plea of the claimants is that the deceased was running a dairy. The Tribunal, in para 16 of the award, has noticed that the claimants failed to adduce cogent evidence to prove income of the deceased. Income of the deceased assessed by the Tribunal is more than minimum wage available at the relevant time. I do not find any justification for enhancement of income of the deceased. However, as the deceased was 20 years old unmarried son of the claimants, they shall be entitled to benefit of increase in income for future prospects @ 40%. The admissible multiplier, in the given scenario, would be 18. In this context, reference can be made to judgments of Hon'ble the Supreme Court **Smt.Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298**, **Munna Lal Jain vs. Vipin Kumar Sharma 2015(3) RCR (Civil) 447** and

National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270. Accordingly, loss of dependency is calculated at Rs. 6,04,800/- [4000 x12 x18=8,64,000 +3,45,600 (40%)=12,09,600 -6,04,800 (50%)].

Under conventional heads, compensation awarded by the Tribunal is modified to the extent that claimants are entitled to Rs. 30,000/-, detailed hereunder :-

Expenses on funeral	**Rs. 15,000/-**
Loss of estate	**Rs. 15,000/-**

Total compensation is Rs. 6,34,800/- and the additional amount is Rs. 3,98,800/- (6,34,800-2,36,000), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 255 days in filing the appeal, to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

06.07.2018
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No