

**Sr. No. 218  
IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**FAO No.4107 of 2015 (O&M)**

**Date of Decision: 13.09.2018**

Darshana and others

... Appellants

Versus

Gurjar Shanker and others

... Respondents

**CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA**

Present:- Mr. Amardeep Hooda, Advocate,  
for the appellants.

Mr. Vinod Gupta, Advocate,  
for respondent No.3-Insurance Company.

**TEJINDER SINGH DHINDSA, J.(ORAL)**

**CM No.13207-CII of 2015**

This is an application filed under Section 151 of CPC for  
condonation of delay of 59 days in re-filing the appeal.

In view of the averments made in the application, the  
same is allowed.

Application disposed of.

**CM No.13208-CII of 2015**

Instant application has been filed under Section 5 of the  
Indian Limitation Act seeking condonation of 40 days delay that  
has occurred in the filing the accompanying appeal.

Notice in the application was issued.

No response to the application has been filed on behalf  
of contesting respondent Insurance Company.

In view of averments made in the application, I find that sufficient cause has been shown to justify condonation of delay that has occurred.

Delay condoned.

Application disposed of.

**Main Case**

This is a claimants' appeal seeking enhancement of compensation.

Briefly, it may be noticed that a claim petition under Section 166 of the Motor Vehicles Act was filed before the Motor Accident Claims Tribunal, Rohtak seeking compensation to the tune of Rs.25 lakhs on account of death of Balwan Singh in a motor vehicle accident that took place on 26.10.2012. Claimants were the widow and two major sons of the deceased.

Case set up on behalf of the claimants was that Balwan Singh (since deceased) was proceeding on foot and was struck by a truck bearing registration No.RJ-14-GC-8604 and which was being driven by Gurjar Shankar in a rash and negligent manner.

The Tribunal vide award dated 27.08.2014 has awarded a compensation amount of Rs.5,48,000/- along with interest @ 7.5% from the date of filing of the claim petition till actual realization. The compensation amount has been directed to be apportioned inasmuch as Rs.1 lakh each has been awarded in favour of both the sons and balance amount in favour of widow of the deceased.

Since the only issue involved in the instant appeal is

with regard to quantum of compensation, I have heard counsel for the claimants/appellants as also learned counsel representing the contesting respondent Insurance Company. Since quantum of compensation is the only issue, this Court would only be adverting to the findings recorded by the Tribunal on issue No.2 and which was framed in the following terms:-

***“If issue No.1 is proved in affirmative, to what amount and from whom the petitioners are entitled to recover?”***

Insofar as issue No.1 is concerned, findings have been returned by the Tribunal in favour of the claimants and it has been held that Balwan Singh died on account of the injuries suffered upon being struck by the offending truck and which was being driven in a rash and negligent manner.

Insofar as issue No.2 is concerned, Tribunal has assessed the monthly income of the deceased to be Rs.6000/- per month. 1/3<sup>rd</sup> deduction has been made towards personal and living expenses of the deceased and keeping in view the age of the deceased to be 52 years, a multiplier of 11 has been applied to the multiplicand and that apart an amount of Rs.10,000/- has been awarded towards funeral expenses and like amount of Rs.10,000/- towards loss of consortium. The total amount compensation computed as such by the Tribunal is Rs.5,48,000/-.

In the considered view of this Court, the compensation amount awarded in favour of the claimants is required to be revisited in terms of guidelines and parameters laid down by the Hon'ble Supreme Court in ***Smt. Sarla Verma and others Vs. Delhi***

*Transport Corporation and another 2009 (3) RCR (Civil) 77 and National Insurance Company Limited Vs. Pranay Sethi and others, 2017 (4) RCR (Civil ) 1009.*

Counsel for the parties are ad idem that the Tribunal has overlooked the aspect with regard to increase in income towards future prospects.

Since it is not in dispute that the deceased was self-employed and was in the age bracket of 51-60 years, 10% increase in income towards future prospects is awarded as per dictum of the Apex Court in *Pranay Sethi's case (supra)*. That apart even the total amount of Rs.20,000/- awarded under the conventional heads would now stand enhanced to Rs.70,000/- i.e. loss of estate, loss of consortium and funeral expenses.

In view of the above, the compensation amount is re-assessed and calculated in the following terms:-

| Sr. No. | Head                                                                        | Calculation                                   |
|---------|-----------------------------------------------------------------------------|-----------------------------------------------|
| 1.      | Income Rs.6000/- p.m. (as assessed by the Tribunal)                         | Rs.6000/-                                     |
| 2.      | Future prospects @ 10%                                                      | Rs.6000+600=Rs.6600/-                         |
| 3.      | 1/3rd deduction towards personal and living expenses of the deceased        | Rs.6600-2200=4400/-<br>Rs. 4400 x 12=52,800/- |
| 4.      | Compensation after applying multiplier of 11                                | Rs. 52800 x 11=5,80,800/-                     |
| 5.      | Conventional Heads: loss of estate, loss of consortium and funeral expenses | Rs.70,000/-                                   |
|         | Total                                                                       | Rs.6,50,800/-                                 |

The afore-calculated enhanced compensation amount would be payable by the Insurance Company along with 6% interest from the date of filing of the present appeal till actual realization.

It is, however, directed that afore-calculated enhanced compensation amount would be apportioned in a manner whereby 50% of the same would be payable to appellant No.1 Smt. Darshana, widow of the deceased and the balance 50% would be divided in equal shares amongst appellant Nos.2 and 3 i.e. major sons of the deceased.

The appeal is disposed of in the aforesaid terms.

**13.09.2018**

vandana

**(TEJINDER SINGH DHINDSA)**  
**JUDGE**

Whether speaking/reasoned  
Whether Reportable

Yes  
No