

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

254

FAO No.3593 of 2016 (O&M)

Date of decision: 26.11.2018

RUKSANA AND OTHERS

... Appellants

Versus

SANDEEP AND OTHERS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Arun Singhal, Advocate for the appellants.
None for respondent No.3.

REKHA MITTAL, J. (Oral)

CM-12629-CII-2016

Prayer in this application is for condonation of delay of 481 days in filing the appeal.

In view of averments made in the application supported by an affidavit of appellant No.1 coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 481 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 Takir @ Toshit in a motor vehicular accident that took place on 05.03.2012.

The Tribunal has awarded compensation of Rs.7,48,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.4500/-
2. Multiplier	15
3. Deduction for personal expenses	1/5 th
4. Loss of dependency	Rs.6,48,000/-
5. Expenses on funeral	Rs.10,000/-
6. Loss of estate	Rs.10,000/-
7. Loss of love and affection	Rs.30,000/-
8. Transportation	Rs.10,000/-
9. Loss of consortium	Rs.40,000/-

The Tribunal has assessed income of the deceased at Rs.4500/- per month by treating him as daily wage earner. Taking a clue from the notification issued by the State of Haryana fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.4850/- per month. Claimants shall be entitle to addition in income for future prospects @40%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.9,77,760/- [(4850 x 12 x 15) + (40% future prospects) – (1/5th deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.2,70,000/-, detailed hereunder:-

1. Loss of consortium to claimants No.1 to 6	Rs.2,40,000/- (Rs.40,000/- each)
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

Total compensation is Rs.12,47,760/- and the additional amount is Rs.4,99,760/- (12,47,760 - 7,48,000), payable with interest @7.5% per annum from the date of petition till realization, except for the period of delay of 481 days in filing the appeal. The additional amount shall be paid to the claimants in terms of the award.

The appeal is partly allowed in the aforesaid terms.

26.11.2018

ashok

(REKHA MITTAL)
JUDGE

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