IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

230 FAO No.688 of 2014 (O&M)
Date of decision: 22.10.2018

SANJAY ... Appellant

Versus

NAM SINGH AND ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. H.S. Gharoo, Advocate for
Mr. Amit K. Goyal, Advocate
for the appellant.

Mr. M.B. Jain, Advocate
for the insurance company.

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REKHA MITTAL, J. (Oral)

CM-9759-CII-2016 in/and CM-9760-CII-2016

Prayer in this application is for condonation of delay of 182 days in filing the application for restoration of appeal.

In view of averments made in the application supported by an affidavit of Sh. Amit K. Goyal, Advocate coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 182 days in filing the application for restoration of appeal is condoned subject to the condition that the claimant shall forgo interest for the period of delay, in case compensation is enhanced.

For the reasons contained in the application (CM-9760-CII-2016), same is allowed and order dated 08.10.2015 is recalled.

The main appeal is restored and taken up on board today itself.

CM-2171-CII-2014

Heard.

Allowed as prayed for. Delay of 40 days in re-filing the appeal stands condoned.

Main Case

The claimant is in appeal seeking enhancement of compensation on account of death of Sh. Rammehar in a motor vehicular accident that took place on 02.12.2011.

The Tribunal has awarded compensation of Rs.3,18,212/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.4633/-
2. Multiplier	11
3. Deduction for personal expenses	50%
4. Loss of dependency	Rs.3,05,712/-
5. Expenses on funeral	Rs.5000/-
6. Loss of estate	Rs.7500/-

Counsel for the insurance company would urge that deduction for personal expenses allowed the Tribunal is correct and may be affirmed.

The plea of claimant is that deceased was working as supervisor in Atlas Cycle Limited at salary of Rs.12,000/- per month. Naresh, HR Executive, Atlas Cycle Ltd., Sonepat, PW2 appeared in the witness box and produced pay slip recording salary of the deceased including Provident Fund to the tune of Rs.4633/- per month. Claimant shall be entitle to addition in income for future prospects @ 10%. The multiplier applied by the Tribunal is correct and affirmed.

The Tribunal has deducted 50% towards personal and living expenses of the deceased. Even if claimant is the adult and married son of the deceased, admissible deduction would be 1/3rd as the deceased was to contribute towards family income after meeting his personal expenses. Accordingly, deduction for personal expenses would be 1/3rd. In this manner, loss of dependency is calculated at Rs.4,48,474/- [(Rs.4633 x 12 x 11) + (10% future prospects) – (1/3rd deduction for personal expenses)].

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

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

Total compensation is Rs.5,18,474/- and the additional amount is Rs.2,00,262/- (5,18,474 - 3,18,212), payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 182 days in filing the application for restoration of appeal.

The appeal is partly allowed in the aforesaid terms.

22.10.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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