In the High Court of Punjab and Haryana at Chandigarh

FAO- 4494 of 2016(O&M)
Date of Decision: 7.9.2018

Harjinder Kaur and another

---Appellants

versus

Gurnaib Singh and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Jatinderpal Singh Advocate
for the appellants

Mr. Neeraj Khanna, Advocate,
for the insurance company/respondent No. 2

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Rekha Mittal, J.

CM No. 15422-CII of 2016

Prayer in this application is for condoning delay of 89 days in filing the appeal.

Heard.

Allowed as prayed for. Delay of 89 days in filing the appeal stands condoned.

Disposed of accordingly.

FAO No. 4494 of 2016

The claimants are in appeal seeking enhancement of compensation on account of death of Kulbhushan Singh in a motor vehicular accident that took place on 18.11.2014.

The Motor Accidents Claims Tribunal, Bathinda (in short "the

Tribunal") has awarded compensation of Rs. 4,74,000/- rounded off to Rs. 4,80,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 4500/-
Deduction for personal expenses	1/3rd
Multiplier	9
Loss of dependency	Rs. 3,24,000/-
Loss of consortium	Rs. 1,00,000/-
Funeral expenses	Rs. 25,000/-
General damages	Rs. 25,000/-

Counsel for the appellants would argue that income of the deceased assessed by the Tribunal is grossly inadequate and far below the minimum wage available at the relevant time. Claimants may be allowed benefit of addition in income for future prospects.

Counsel for the insurance company, on the contrary, would urge that as the deceased was 58 years old, he cannot claim minimum wage available to a labour at the relevant time. Compensation allowed under conventional heads may be restricted to Rs. 70,000/-.

The application for compensation has been filed by the widow and adult son of deceased Kulbhushan Singh. The claimants produced on record income tax return for the year 2015-16 wherein salary of the deceased was stated to Rs. 76,000/- per annum. However, the income tax return was filed on 8.9.2015 whereas the accident took place on 18.11.2014. Even as per income tax return, salary of the deceased was approximately Rs. 6300/- per month. Taking a clue from the minimum wage available in the State of Punjab at the relevant time coupled with the aforesaid discussion and age of the deceased, interest of justice would be served if income of the deceased is assessed at Rs. 6000/- per month. Claimants shall be entitled to addition in income @ 10%. Deduction for personal expenses and multiplier allowed by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs. 4,75,200/- [6000x12x9=6,48,000 + 64,800 (10%)=7,12,800 -2,37,600(1/3)].

Compensation awarded under conventional heads is modified to the effect that claimants shall be entitled to Rs. 70,000/-, detailed hereunder:-

Loss of consortium to widow	**Rs. 40,000/-**
Expenses on funeral	**Rs. 15,000/-**
Loss of estate	**Rs. 15,000/-**

Total compensation is Rs. 5,45,200/- and the additional amount is Rs. 65,200/- (5,45,200-4,80,000), payable with interest @ 7.5% per annum from the date of petition till realization to widow of the deceased.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

7.9.2018
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No