IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.5589 of 2015 (O&M)
Judgment reserved on 19.07.2018
Date of Decision: 30.07.2018

Karamjit Kaur and others

... Appellants

Versus

Ranjit Singh and others

... Respondents

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

Present:- Ms. Amandeep Kaur, Advocate,
for the appellants.

Mr. M.B.Jain, Advocate,
for respondent No.3.

TEJINDER SINGH DHINDSA, J.

CM No.17638-CII of 2015

Instant application has been filed under Section 5 of the Limitation Act seeking condonation of delay of 678 days in filing the appeal.

For the reasons stated in the application and in view of the submissions advanced by counsel, I find that sufficient cause has been shown to condone the delay of 678 days.

Prayer is allowed.

Delay condoned.

Application disposed of.

Main case

This is a claimants' appeal seeking enhancement of compensation.

Brief facts are that a petition under Section 166 of the Motor Vehicles Act was filed before the Motor Accident Claims Tribunal, SAS Nagar, Mohali claiming compensation to the tune of Rs.50 lakhs on account of death of Dalbir Singh in a motor vehicle accident that took place on 26.10.2010. Claimants were the widow, daughter, son and parents of the deceased.

In the claim petition, it was asserted that Dalbir Singh (since deceased) used to ply a three-wheeler/auto rickshaw and on 26.10.2010 while coming back after dropping the occupants, a tipper truck bearing registration No. PB-65-G-8732 being driven by respondent No.1-Ranjit Singh in a rash and negligent manner, struck against the three-wheeler on account of which Dalbir Singh suffered grievous injuries and succumbed to the same. Deceased was stated to be 46 years old at the time of his death. Claimants asserted that he was earning Rs.12,000/- per month by plying the auto-rickshaw and was also getting an additional sum of Rs.4500/- per month by giving the three-wheeler on rent.

The claim petition was contested by the driver/owner as also the Insurance Company by filing separate written statements.

From the pleadings of the parties, following issues were framed by the Tribunal:-

1. ***"Whether deceased Dalbir Singh died in a road side accident caused due to the rash and negligent driving by respondent No.1 while driving, Truck No.PB65-G-8732? OPP.***
2. ***Whether the claimants are entitled to receive***

compensation? If so, to what extent and from whom? OPP.

3. ***Whether the claim petition is not maintainable? OPR.***
4. ***Whether the respondent No.1 was not holding a valid and effective driving licence at the time of alleged accident? OPR***
5. ***Relief."***

Insofar as issue No.1 was concerned, Tribunal returned a finding in favour of the claimants and held that Dalbir Singh had died in the motor vehicle accident on account of rash and negligent driving of the offending vehicle by respondent No.1 Ranjit Singh.

Insofar as quantum of compensation is concerned, Tribunal took the age of the deceased to be about 47 years as mentioned in the copy of the School Leaving Certificate Ex.P-2. Income of the deceased was assessed as Rs.6000/- per month and 30% increase thereupon was allowed towards future prospects. 1/4th deduction was made from the total income of the deceased towards his personal and living expenses. Multiplier of 13 was applied. The claimants were also awarded Rs.20,000/- towards funeral expenses and loss of estate etc. The total compensation awarded by the Tribunal was Rs.9,32,600/-. A further sum of Rs.60,000/- was awarded for repair of the damages to three-wheeler/auto-rickshaw.

Since the only issue in this appeal is with regard to quantum of compensation, I have heard Ms. Amandeep Kaur, Advocate for the appellants and Mr. M. B. Jain, learned counsel for contesting respondent No.3-Insurance Company.

Counsel for the appellants has vehemently argued that the Tribunal has erred in not accepting and assessing income of the deceased as Rs.16,500/-. Further urged that monthly income of the deceased has been taken as Rs.6000/- which is impractical and on the lower side. Counsel further argues that apparently a sum of Rs.20,000/- only has been awarded under the conventional heads i.e. funeral expenses, loss of estate etc. and the same deserves to be enhanced.

Per contra learned counsel representing the Insurance Company submits that compensation amount awarded by the Tribunal does not call for any interference and even 30% increase in income awarded by the Tribunal towards future prospects is on the higher side. He prays for dismissal of the appeal.

Having heard counsel for the parties at length, this Court is of the considered view that the compensation awarded by the Tribunal deserves to be enhanced to a limited extent.

Even though claimants had asserted that the deceased was earning a sum of Rs.16,500/- per month but no cogent and credible evidence was adduced to substantiate such claim. The date of accident admittedly is 26.10.2010. Counsel for the appellants concedes that at the relevant point of time, the minimum wages admissible to a skilled worker as per Government Notification were approximately Rs.5000/-. Under such circumstances, the view taken by the Tribunal in assessing income of the deceased to be Rs.6000/- per month would not call for any interference.

Even as per claimants, age of the deceased was 47 years at the time of his death. In the case of ***National Insurance Company Limited Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009,*** it has been held that where victim is self-employed and is in the age bracket of 40-50 years, an addition of 25% in income towards future prospects is to be awarded. In the present case, Tribunal has granted an increase of 30% income towards future prospects. This Court, however, is not inclined to reduce the figure of increase in income towards future prospects from 30% awarded by the Tribunal to 25%. This is for the reason that no cross appeal has been preferred by the Insurance Company and even otherwise in the case of a beneficial legislation, bias of the Courts would be in favour of the claimants. As such increase in income to the extent of 30% towards future prospects awarded by the Tribunal is affirmed.

This Court finds that the Tribunal has been rather frugal in awarding only Rs.20,000/- on account of funeral expenses, loss of estate etc. By following the dictum in ***Pranay Sethi's case (supra)*** a lumpsum amount of Rs.70,000/- is awarded to the claimants on the conventional heads i.e. loss of estate, loss of consortium and funeral expenses.

In view of the discussion hereinabove, the revised compensation is computed as under:-

Sr. No.	Head	Calculation
1.	Income Rs.6000/- p.m.	Rs.6000 + 30% future prospects =6000+1800=Rs.7800/-
2.	1/4th deduction towards personal expenses of the deceased	Rs.7800-1950=5850/- Rs. 5850 x 12=70,200/-
3.	Compensation after applying multiplier of 13	Rs. 70,200 x 13=9,12,600/-
4.	Conventional Heads: loss of consortium, loss of estate, funeral expenses	Rs.70,000/-
	Total	Rs.9,82600/-

It is directed that the afore-calculated enhanced compensation be apportioned equally amongst the claimants/appellants and be released to them along with 6% interest from the date of filing of the instant appeal till actual date of realization. It is further clarified that while calculating interest upon the enhanced compensation, the period of delay in filing the instant appeal i.e. 678 days shall be excluded.

Appeal is allowed in the aforesaid terms.

30.07.2018 **(TEJINDER SINGH DHINDSA)**
vandana **JUDGE**

Whether speaking/reasoned Yes
Whether Reportable No