

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

FAO-5900-2015 (O&M)
Date of decision:09.08.2018

Sushila & others

Versus

... Appellants

Mohd. Jamir Ahmad & others

... Respondents

CORAM: HON'BLE MR. JUTSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Ajay Shekhawat, Advocate for the appellants.

Mr. R.K. Bashamboo, Advocate for respondent No.3.

...

TEJINDER SINGH DHINDSA, J. (ORAL).

CM-18579-CII-2015:

The instant application has been filed under Section 151 CPC seeking condonation of 10 days delay that has occurred in re-filing the accompanying appeal.

2. For the reasons stated in the application, prayer is allowed.

Delay of 10 days in re-filing the accompanying appeal is condoned.

3. Application is disposed of.

CM-18581-CII-2015:

The instant application has been filed under Section 5 of the Limitation Act seeking condonation of 86 days delay that has occurred in filing the accompanying appeal.

2. For the reasons stated in the application, prayer is allowed.

Delay of 86 days in filing the accompanying appeal is condoned.

3. Application is disposed of.

Main case:

This is claimants' appeal seeking enhancement of compensation.

2. Briefly, it is noticed that a claim petition under Section 166 of the Motor Vehicle Act, 1988 was filed before the Motor Accident Claims Tribunal, Rohtak claiming a compensation to the tune of Rs.60 lakhs on account of death of Joginder Singh in a motor vehicle accident that took place on 06.11.2011.

3. Claimants were the widow, minor son, minor daughter and aged parents of the deceased.

4. Upon pleadings of the parties, the following issues were framed by the Tribunal:

“1. Whether the accident in question resulting into the death of Joginder Singh took place due to rash and negligent driving of Tata 709 bearing registration No.UP-13-J-8490 by respondent No.1? OPP.

2. If issue No.1 is proved in affirmative, to what amount of compensation, the petitioners are entitled to and from whom? OPP

3. Whether respondents No.1 and 2 have violated the terms and conditions of the insurance policy, if so, to what effect? OPR-3

4. Relief.”

5. Since the only issue raised in the instant appeal is with regard to quantum of compensation, this Court would only advert to the findings recorded by the Tribunal on Issue No.2.

6. The Tribunal vide award dated 17.11.2014 has awarded a total compensation of an amount of Rs.34,10,000/- along with interest at the rate of 8% per annum from the date of filing of the claim petition till realization.

7. I have heard counsel for the parties at length and have perused the pleadings on record.

8. In the considered view of this Court, the compensation amount awarded is required to be suitably enhanced in the light of the parameters laid down by the Apex Court in **Sarla Verma & others Vs. Delhi Transport Corporation & another, 2009 (3) RCR (Civil) 77** and **National Insurance Company Limited Vs. Pranay Sethi & others, 2017 (4) RCR (Civil) 1009**.

9. It has gone uncontroverted that the deceased was serving as a Naik with the Indian Army and his salary as per service record was Rs.23,954/- per month. Tribunal has rounded off the monthly salary to be Rs.24,000/- per month. The same, as such, does not call for any interference. Age of the deceased has correctly been taken as 36 years as per matriculation certificate adduced on record as Ex.P1 as also the provisional national trade certificate.

10. A deduction of 1/4th towards personal and living expenses of the deceased has been made. Even in this regard, no interference is called for keeping in view the number of dependant family members as 4-6 in number and as per parameters laid down by the Apex Court in **Sarla Verma's case (supra)**.

11. The Tribunal in the impugned award has clearly overlooked the aspect as regards increase in income towards future prospects.

12. Keeping in view the factual premise that the deceased was a permanent government employee and was 36 years of age, 50% increase in income towards future prospects is awarded.

13. The Tribunal in the award dated 17.11.2014 has awarded Rs.50,000/- towards loss of consortium, Rs.20,000/- as funeral expenses and

Rs.1 lakh towards love and affection. The afore noticed amount would now stand scaled down to be Rs.70,000/- under the conventional heads i.e. loss of estate, loss of consortium and funeral expenses.

14. In view of the above, the revised compensation amount would be as follows:

Sr. No.	Computation/Head	Revised calculation
1.	Income Rs.24,000/-	50% increased towards future prospects i.e. 24,000+12,000=36,000/-
2.	1/4 th cut towards personal and living expenses of the deceased	36,000-9000=27,000/-
3.	Compensation after applying multiplier of 15	27,000 x 12 = 3,24,000/- 3,24,000 x 15 =48,60,000-
4.	Conventional Heads i.e. funeral expenses and loss of consortium etc.	Rs.70,000/- 48,60,000+70,000=49,30,000/-
5.	Total	Rs.49,30,000/-

15. The afore calculated revised and enhanced compensation amount be apportioned in the same pattern as had been directed by the Tribunal in the award dated 17.11.2014. The claimants/appellants would also be entitled to the interest at the rate of 6% on the enhanced amount of compensation from the date of filing of the claim petition till actual realization. However, while calculating interest, the delay that has occurred in filing the instant appeal shall be excluded.

16. Appeal is allowed in the aforesaid terms.

17. Since the main appeal itself has been decided, pending applications, if any, shall also stand disposed of.

09.08.2018
harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

- i) Whether speaking/reasoned? Yes/No
- ii) Whether reportable? Yes/No