

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 6080 of 2015(O&M)

Date of Decision:17.4.2018

Manjeet Kaur and another

---Appellants

vs.

Gurmel Singh and another

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Dheeraj Narula, Advocate
for the appellants

Mr. Ankit Aggarwal, Advocate
for Mr. Anupam Singla, Advocate
for respondent No. 2

Rekha Mittal, J.

CM No.19271-CII of 2015

Prayer in this application is for condoning delay of 372 days in filing the appeal.

In view of averments made in the application supported by affidavit coupled with that provisions of the Motor Vehicles Act dealing with grant of compensation are benevolent social legislation to save the victim family from financial loss caused due to accident, the application is allowed, delay of 372 days in filing the appeal stands condoned subject, however, to the condition that in case the compensation is enhanced, the applicants-appellants shall not be entitled to interest for the period of delay.

Disposed of accordingly.

FAO No. 6080 of 2015

The claimants are in appeal seeking enhancement of compensation on account of death of Sukhwinder Singh in a motor vehicular accident that took place on 23.1.201

The Motor Accidents Claims Tribunal, Sirsa (in short “the Tribunal”) has awarded compensation of Rs. 3,80,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 3000/-
Deduction for personal expenses	1/3 rd
Multiplier	15
Loss of dependency	Rs. 3,60,000/-
Mental pain and suffering, love and affection	Rs. 10,000/-
Funeral expenses and transportation	Rs. 10,000/-

Counsel for the claimants would urge that deceased was a brilliant student of Science studying in 10+2, therefore, income of the deceased assessed by the Tribunal is liable to be enhanced. Claimants are entitled to benefit of increase in income for future prospects. Adequate compensation may be allowed under conventional heads. Loss of dependency is liable to be computed by adopting multiplier of 18 as the deceased was 17 years of age.

Counsel representing the insurance company would urge that as the application for compensation has been filed by parents of the deceased qua death of their unmarried son, admissible deduction for personal expenses should be 50% in the light of judgment of Hon'ble the Supreme Court **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009 (3)RCR (Civil) 77.**

There is no dispute raised by counsel for the insurance company

that the deceased was a student of 10+2 at the time of death. There is nothing on record suggestive of the fact that the deceased had any disability to impair his capacity to earn livelihood for himself and his family. Taking a clue from the notification issued by the State of Haryana fixing minimum wage of a casual labour, income of the deceased is assessed at Rs. 5200/- per month. Claimants shall be entitled to benefit of increase in income for future prospects @ 40%. As the deceased was 17 years old, appropriate multiplier would be 18 in the light of judgments of Hon'ble the Supreme Court **Smt. Sarla Verma and others' case (supra), Munna Lal Jain vs. Vipin Kumar Sharma 2015(3) RCR(Civil) 447** and **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270**. The Tribunal has allowed deduction for personal expenses to the extent of 1/3rd but the same would be 50% as the deceased was unmarried son of the claimants. In this manner, loss of dependency comes to **Rs. 7,86,240/-** [5200 x 12 x 18 = 11,23,200 + 4,49,280 (40%) = 15,72,480 – 7,86,240 (50%)].

Under conventional head, compensation awarded by the Tribunal is modified to the effect that the claimants shall be entitled to **Rs. 30,000/-** namely Rs. 15,000/- for expenses on funeral and Rs. 15,000/- for loss of estate.

Total compensation comes to **Rs.8,16,240/-** and the additional amount is **Rs. 4,36,240/-** (8,16,240 - 3,80,000), payable with interest @ 7.5% per annum from the date of petition till realization to mother of the deceased except for a period of delay i.e. 372 days in filing the appeal.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

17.4.2018.

paramjit

Whether speaking/reasoned: Yes

Whether reportable : Yes/No