

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

206

FAO No.7679 of 2014 (O&M)

Date of decision: 06.09.2018

RICHA JAITLEY & ORS

... Appellants

Versus

DIGVIJAY SINGH & ANR

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Ms. Shallie Mahajan, Advocate for
Mr. Sharwan Sehgal, Advocate for the appellants.

Mr. D.P. Gupta, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

CM No.20530-CII of 2014

Prayer in this application is for condonation of delay of 227 days in filing the appeal.

In view of averments made in the application supported by an affidavit of Smt. Richa Jaitly, widow of the deceased coupled with that the provisions of Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 227 days in filing the appeal is condoned subject to the condition that the claimants shall forgo interest for the period of delay in case compensation is enhanced.

Main Case

The claimants are in appeal seeking enhancement of compensation on account of death of Aditya Jaitly in a motor vehicular accident that took place on the intervening night of 05/06.03.2011.

The Tribunal has awarded compensation of Rs.23,74,464/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.17,349/-
2. Multiplier	17
3. Deduction for personal expenses	1/3 rd
4. Loss of dependency	Rs.23,59,464/-

- | | |
|--|-------------|
| 5. Expenses on funeral | Rs.5000/- |
| 6. Loss of consortium, love and affection etc. | Rs.10,000/- |

The Tribunal has accepted plea of the claimants that the deceased was working as Staff Photographer in Times of India, Chandigarh having its sub-office at Ludhiana. Ravinder Sharma, Deputy Manager, Times of India PW2 was examined to prove avocation and income of the deceased. The witness produced the salary certificate Ex.PW2/A. Total target remuneration per month is Rs.21,306/- and Rs.2,55,672/- per annum. The entire income of the deceased to the tune of Rs.21,306/- per month shall be taken into account for computing loss of dependency and the annual income comes to Rs.2,55,672/-. After deducting liability to pay income tax (Rs.9567/-), annual loss of dependency comes to Rs.2,46,105/-. Claimants shall be entitled to addition in income for future prospects @40%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.39,04,866/- [(Rs.2,46,105 x 17) + (40% future prospects) – (1/3rd deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitled to Rs.70,000/-, detailed hereunder:-

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

Total compensation is Rs.39,74,866/- and the additional amount is Rs.16,00,402/- (39,74,866 - 23,74,464), payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 227 days in filing the appeal.

The appeal is partly allowed in the aforesaid terms.

06.09.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No