IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.7710 of 2014 (O&M)
Decided on:-January 19, 2018.

Darshana Rani and others

………Appellants.

Versus

Anil Kumar and others

………Respondents.

CORAM: ***HON'BLE MR. JUSTICE HARI PAL VERMA.***

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Present:- Mr. Tapish Gupta, Advocate for
Mr. R.K. Arora, Advocate
for the appellants.

Respondents No.1 and 2 *ex parte*.

Mr. V. Ramswaroop, Advocate
for respondent No.3.

HARI PAL VERMA, J. (Oral)

CM-20564-CII-2014

Prayer in this application filed under Section 151 CPC is for condonation of delay of 235 days in re-filing the present appeal.

For the reasons stated in the application, the same is allowed and the delay of 235 days in re-filing the instant appeal is condoned.

FAO No.7710 of 2014

The appellant-claimants have filed the present appeal for enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Panchkula (for short, the Tribunal) vide award dated 30.05.2013.

On a claim petition filed by the appellant-claimants under Section 166 of the Motor Vehicles Act, 1988 (for short, the Act) seeking compensation on account of death of Harish Kumar, who had died in a motor vehicular accident, which took place on 17.08.2011, the Tribunal has awarded total compensation of Rs.10,35,816/- along with interest @ 6% per annum from the date of filing of the petition till its realization.

Learned counsel for the appellants has argued that the Tribunal has not awarded compensation as per the entitlement and, therefore, the award needs modification/enhancement. Deceased Harish Kumar was father of three children and his income was about Rs.11,000/- per month, as he used to sell clothes on Pheri. He was also working on a part time job and once there is no rebuttal of the evidence produced by the appellants, the source of income narrated by the appellant-claimants should have been accepted. The income of the deceased should have been considered Rs.14,000/- per month instead of Rs.5,500/- per month as assessed by the Tribunal.

Learned counsel for the appellants has also contended that the Tribunal has applied multiplier of '14', whereas the appellants are entitled for multiplier of '15'. Similarly, the rate of interest awarded by the Tribunal is on lower side.

On the other hand, learned counsel for the respondent-insurance company has argued that the Tribunal has already awarded adequate compensation and there is no scope for enhancement. However, he has been fair enough to state that taking into consideration the age of deceased, the multiplier of '15' should have been applied instead of '14' as the deceased was aged about 40 years.

I have heard learned counsel for the parties.

Though the appellants have pleaded that the deceased was earning Rs.14,000/- per month, but no cogent evidence has been produced by them in support of such income. Therefore, the Tribunal has rightly assessed the income of deceased as Rs.5,500/- per month. However, taking into consideration the judgment of the Apex Court in ***Sarla Verma and others Versus Delhi Transport Corporation and another 2009(3) RCR (Civil) 77***, this Court finds that the claimants deserve to be awarded compensation while applying the multiplier of '15' instead of '14'.

Moreover, in the light of judgment of the Apex Court in ***National Insurance Company Limited Versus Pranay Sethi and others 2017(4) RCR (Civil) 1009***, this Court finds that the appellant-claimants are also entitled compensation for future prospects and the amount under the conventional heads. Accordingly, the award passed by the Tribunal needs modification and the appellants are required to be awarded compensation in accordance with the following tabulated form:

Monthly income		Rs.5500/-
Future prospects	(40% of Rs.5500/-)	Rs.2200/-
Total monthly income		Rs.7700/-
Annual income	(7700x12)	Rs.92,400/-
Deductions (Personal expenses of deceased)	($1/4^{th}$ of annual income)	Rs.23,100/-
Annual dependency	(92,400-23,100)	Rs.69,300/-

Multiplier	15	
Total loss of dependency	(69300x15)	Rs.10,39,500/-
Conventional heads		
	Loss of estate	Rs.15,000/-
	Funeral expenses	Rs.15,000/-
	Loss of consortium	Rs.40,000/-
Total amount of compensation		Rs.11,09,500/-
Amount already awarded		Rs.l0,35,816/-
Enhancement		Rs.73,684/-

Further, in view of the judgment passed in ***Pranay Sethi and others' case (supra)***, the rate of interest awarded by the Tribunal i.e. 6% per annum is also modified as 7.5% from the date of filing of the claim petition till its realization.

Accordingly, the present appeal is allowed and the award dated 30.05.2013 passed by the Tribunal is modified to the aforesaid extent. Consequently, the appellant-claimants are awarded total amount of compensation of Rs.11,09,500/- along with interest @ 7.5% from the date of filing of the claim petition till its realization.

(HARI PAL VERMA)
JUDGE

January 19, 2018
Yag Dutt

Whether speaking/reasoned: Yes

Whether Reportable: No