

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

FAO No.6123 of 2015(O&M)

Date of decision: 9.3.2018

Sukhan and others

.....Appellants

VERSUS

Gulfan and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Lakhwinder Singh, Advocate for
Mr. M.S. Tewatia, Advocate for the appellants.

Mr. Rajbir Singh, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

CM No.19398-CII of 2015

Prayer in this application is for condonation of delay of 171 days in re-filing the appeal.

Heard.

In view of the averments made in the application supported by an affidavit of M.S. Tewatia, Advocate for the appellant, the application is allowed and delay of 171 days in re-filing the appeal stands condoned, subject to condition that in case, the appellants succeed in appeal, they will forgo interest for the period of delay.

Disposed of accordingly.

FAO No.6123 of 2015

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Palwal

(in short 'the Tribunal') in regard to death of Rohtash in a motor vehicular accident that took place on 03.12.2012.

The Tribunal has awarded compensation to the tune of Rs.6,11,000/- detailed hereunder:-

Monthly income of the deceased	Rs.4500/-
Deduction for personal expenses	1/3 rd
Multiplier	16
Loss of dependency	Rs.5,76,000/-
Loss of consortium and love and affection	Rs,20,000/-
Loss of estate	Rs.5,000/-
Funeral expenses	Rs.10,000/-

The Tribunal has assessed income of the deceased at Rs.4,500/- per month on the basis of wage of a casual worker. However, perusal of the notification issued by the State of Haryana fixing minimum wages and available at the relevant time, income of the deceased is assessed at Rs.5,000/- per month. As the deceased was less than 40 years of age, claimants shall be entitled to increase in income for future prospects at the rate of 40%. The Tribunal has applied deduction of 1/3rd but in view of number of claimants held entitled to get compensation, admissible deduction would be 1/4th. Multiplier adopted by the Tribunal is affirmed. In this manner, loss of dependency comes to Rs.10,08,000/- [Rs.9,60,000/- (Rs.5000 x 12 x 16) + Rs.3,84,000/- (40% future prospects) – Rs.3,36,000/- (1/4th deduction towards personal expenses).

The claimants shall be entitled to following compensation under conventional heads in the light of latest judgment of Hon'ble the

Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270 :-**

Loss of consortium to the widow Rs.40,000/-

Funeral expenses Rs.15,000/-

Loss of estate Rs.15,000/-

In view of the above, total compensation comes to Rs.10,78,000/- and the additional amount is Rs.4,67,000/- (Rs.10,78,000/- - Rs.6,11,000/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization except for the period of 171 days in re-filing the appeal, to be shared by the widow and minor children of the deceased in the proportion 30:35:35. The amount falling to the share of minors shall be deposited in Fixed Deposit till they attain the age of majority or for a period of three years, whichever is later. Interest accruing on the FDR shall be paid to guardian of the minors for meeting expenses on their living and education.

The appeal is partly allowed in the aforesaid terms.

MARCH 9, 2018

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no