

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

**FAO-5116-2016 (O&M)
Date of Decision: 13.07.2018**

Devbati & others

... Appellants

Versus

Jakar Khan & others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Barjinder Singh, Advocate for
Mr. Ashish Gupta, Advocate for the appellants.

...

TEJINDER SINGH DHINDSA, J. (ORAL)

CM-17507-CII-2016:

Instant application has been filed under Section 5 of the Limitation Act seeking condonation of delay of 431 days that has occurred in filing the accompanying appeal.

2. The contents of the application do not disclose any justifiable basis to condone the inordinate delay of 431 days in filing the appeal.

3. Prayer is declined.

4. Application is dismissed.

Main case:

This is claimants' appeal seeking enhancement of compensation.

2. Brief facts that may be noticed are that a claim petition was filed under Section 166 of the Motor Vehicles Act, 1988 on account of death of Jag Ram @ Pappu in a motor vehicle accident on 17.12.2013. Claimants were the widow, two minor sons, one minor daughter and mother of the

deceased. Compensation to the tune of Rs.15 lakhs was claimed.

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

- “1. Whether accident in question resulting in death of Jag Ram @ Pappu son of Anil Kumar took place on 17.12.2013 at about 10:00 PM in the jurisdiction of Police Station Nuh, because of rash and negligent driving of offending vehicle No.HR-38M-5677 by its driver/respondent No.1? OPP*
- 2. If issue no.1 is proved. Whether the petitioners are entitled to get compensation. If so, to what amount and from whom? OPP.*
- 3. Whether respondent No.1 was not holding a valid and effective driving license to drive the offending vehicle at the time of alleged accident. If so, its effect? OPR-3.*
- 4. Whether the respondent No.2 has violated the terms and conditions of insurance policy? If so, to what effect? OPR No.3.*
- 5. Relief.”*

4. As regards issue No.1, finding was returned in favour of the claimants and it was held that Jag Ram @ Pappu had died on account of rash and negligent driving with offending vehicle bearing registration No.HR-38 M-5677 by the driver/respondent No.1, Jakar Khan.

5. As regards quantum of compensation, the Tribunal has taken age of the deceased as 32 years and has assessed the monthly income of the deceased to be Rs.7000/- per month. An addition of 50% of the income towards future prospects has been directed. Keeping in view the number of dependants, cut of $\frac{1}{4}$ th of the income towards personal and living expenses of the deceased has been taken. Keeping in view the age of the deceased, multiplier of 16 was applied and the compensation amount was computed as Rs.15,12,000/-. In addition thereto, Rs.20,000/- have been granted towards

funeral expenses and Rs.20,000/- as loss of consortium. The total compensation amount awarded, as such, is Rs.15,52,000/- and it was directed that such amount be paid along with interest at the rate of 7% per annum from the date of filing of the claim petition till the date of actual realization.

6. Counsel representing the appellants has made a feeble attempt to urge that the compensation awarded by the Tribunal is on the lower side. In this regard, it is submitted that the deceased at the time of accident was earning Rs.10,000/- per month whereas the Tribunal has erred in assessing the monthly income to be Rs.7000/- only.

7. Counsel for the appellants has been heard at length and case paper book has been perused.

8. It had been asserted on behalf of the claimants that the deceased was working as an Assistant Electrician with J.K.M. Overseas Private Limited and his salary was Rs.10,000/- per month. However, the documentary evidence adduced on record in the nature of pay bill, Ex.P1 reflected a carry home salary of the deceased to be Rs.7004/-. Accordingly, the Tribunal has taken monthly income of the deceased to be Rs.7000/- per month. Counsel concedes that there was no other evidence adduced on record to substantiate the salary of the deceased to be Rs.10,000/-. As such, no error is found in the view taken by the Tribunal while assessing the monthly income of the deceased to be Rs.7000/-.

9. That apart, counsel has not been able to convince this Court with regard to compensation awarded by the Tribunal under the various heads and the computation thereof to be in conflict with the guidelines/

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.**

10. No interference in the matter is warranted.
11. Appeal is dismissed on merits as well as on the grounds of delay.
12. Dismissed.

13.07.2018

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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