

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

FAO No.6315 of 2015 (O&M)

Date of decision: 05.02.2018

RAM BHATERI & ORS

... Appellants

Versus

ANIL KUMAR & ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : None for the appellants.

Ms. Neha Sharma, Advocate for
Mr. S.P. Arora, Advocate
for respondent No.3.

REKHA MITTAL, J. (Oral)

CM-19881-CII-2015

Prayer in this application is for condonation of delay of 2040 days in filing the appeal.

In view of the averments made in the application supported by affidavit of Smt. Kiran Devi, widow of the deceased coupled with the factum that the provisions of Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 2040 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 Mahender Singh in a motor vehicular accident that took place on 21.10.2007.

The Tribunal has awarded compensation to the tune of Rs.6,25,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.4800/-
2. Multiplier	16
3. Deduction for personal expenses	1/3 rd
4. Loss of dependency	Rs.6,14,400/-
5. Expenses on funeral, loss of estate and consortium	Rs.10,600/-

Counsel representing the insurance company has supported the award with the submission that adequate compensation has been allowed by the Tribunal.

Perusal of the award, particularly paras 12 and 13, would reveal that the Tribunal has not allowed benefit of increase in income for future prospects. As the deceased was 35 years old, claimants shall be entitled to benefit of future prospects @ 40%. The Tribunal has rightly applied multiplier of 16. However, as application for compensation has been filed by the widow, two minor children and widowed mother of the deceased, deduction for personal expenses would be 1/4th. In this manner, loss of dependency comes to Rs.9,67,680/- (Rs.4800 x 12 x 16) + (40% future prospects) – (1/4th deduction for personal expenses).

Under conventional heads, 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.10,37,680/- and the additional amount is Rs.4,12,680/- (10,37,680 – 6,25,000), payable with interest @7.5% per annum from the date of petition till realization except for the period of delay of 2040 days.

The appeal is partly allowed in the aforesaid terms.

05.02.2018
ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No