IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

230 **CM-18601-CII-2016 in/and**
FAO-5387-2016
Date of Decision :10.7.2018

Keshar and others **...... Appellants**

Versus

Ishak and others **...... Respondents**

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

***

Present: Mr. Chetan Kapoor, Advocate for
Mr. Ashish Gupta, Advocate
for the appellants.

Mr. Rajneesh Malhotra, Advocate
for the respondent No.3-insurance company

***

AJAY TEWARI, J. (Oral)

CM-18601-CII-2016

This is an application for condonation of 208 days delay in filing the appeal.

For the reasons recorded in the application, the same is allowed and delay of 208 days in filing the appeal is condoned subject to the condition that in case appeal is allowed and the compensation is enhanced, the applicants-appellants would not be entitled to any interest for the period of delay.

Main Case

This appeal has been filed against the Award passed by the Motor Accident Claims Tribunal, Mewat dated 11.5.2015 awarding compensation of Rs. 10,57,000/- on account of death of Nanak Chand. Since only two points have been raised detailed reference to the facts is not required.

Counsel for the appellants argues that in view of the Constitution Bench judgment of the Supreme Court in the matter of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*** 40% future prospect has to be granted. Counsel for the respondent No.3 is not in a position to deny this fact. Consequently, I award 40% future prospects.

On the other hand I find that under the conventional heads an amount of Rs. 85,000/- has been awarded which is against the maximum limits of Rs. 70,000/- which has been prescribed in Pranay Sethi's case. Therefore, Rs.15,000/- has to be reduced. Ordered accordingly.

Counsel for the appellants has further argued that income has been wrongly assessed because the Tribunal has illegally ignored the salary certificate Ex.-PW 3/O only on the ground that the same was produced by an employee and not by the owner of the company where the deceased was working.

In my opinion, this cannot be a ground for ignoring the salary certificate. Of course, if a Tribunal comes to the conclusion that a salary certificate is a fake document or is inflated (for reasons to be recorded) it is justified in ignoring the same but in the present case it has been ignored only on the ground that the salary certificate and service record was produced by an employee and not by the owner. Once the deduction of the income tax and the account number of the deceased were on the record there was no reason to disbelieve the salary certificate. Consequently, the salary should be taken as Rs.10,000/- per month. Counsel for the respondent No.3 is not in a position to deny this fact.

I hold that the salary should be taken as Rs.10,000/- per month. The enhanced amount shall carry the same rate of interest as granted by the Tribunal. The apportionment and management would also be as per the direction of the Tribunal.

The appeal stands disposed of with the abovesaid modifications.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

10.7.2018
anuradha

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No