

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

-.-

FAO 5567 of 2016 (O&M)
Date of decision: 20.08.2018

Tek Chand and others

..... Appellants

Versus

Mahabir and another

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. R K Saini, Advocate
for the appellants

Ms Vandana Malhotra, Advocate
for the insurance company

-.-

Rekha Mittal, J. (Oral)

Notice of application for condonation of delay as well as in
appeal to insurance company only.

Ms Vandana Malhotra, Advocate accepts notice and filed
power of attorney on behalf of insurance company.

CM 19031 CII of 2016

Prayer in this application is for condonation of delay of 21 days
in filing the appeal.

Heard.

In view of averments made in the application and arguments
advanced, the application is allowed and delay of 21 days in filing the
appeal stands condoned.

Main case

The claimants are in appeal seeking enhancement of

compensation on account of injuries sustained by Mahender in a motor vehicular accident that took place on 12.11.2013 though Mahender succumbed to injuries on 23.11.2013.

The Tribunal has awarded compensation of Rs.3,67,300.00, detailed hereunder:-

Monthly income of the deceased	Rs.7,000.00
Deduction for personal expenses	50%
Multiplier	5
Loss of dependency	Rs.2,10,000.00
Medical expenses	Rs.47,300.00
Funeral expenses	Rs.10,000.00
Loss to estate to each of claimants No. 2 and 3	Rs.50,000.00 each

The Tribunal has assessed income of deceased at Rs.7,000.00 per month by treating him as labour as per minimum wage. Taking a clue from notification issued by the State of Haryana, fixing minimum wage at the relevant time, income of deceased is assessed at Rs.5,400.00 per month. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. However, claimant No. 1 shall be entitled to benefit of increase in income qua future prospects at the rate of 40%. The deceased was 25 years old, therefore, admissible multiplier is 18 in the light of judgments of Hon'ble the Supreme Court ***Sarla Verma and others v. Delhi Transport Corporation and another 2009(3) R.C.R. (Civil) 77, Munna Lal Jain and another Vs. Vipin Kumar Sharma and others, (2015) 6 SCC 347 and National Insurance Company Limited v. Pranay Sethi and others, 2017 SC 1270.***

In view of the above, loss of dependency is calculated at Rs.8,16,480.00 (Rs.11,66,400.00 i.e. 5,400x12x18 + Rs.4,66,560.00 (40% future prospects) – Rs.8,16,480.00 (50% deduction)).

An amount of Rs.47,300.00 towards medical expenses allowed by the Tribunal is affirmed.

Under conventional heads, claimant No. 1 shall be entitled to Rs.30,000.00, detailed hereunder:-

Expenses of funeral and last rites	Rs.15,000.00
Loss of estate	Rs.15,000.00

As this Court has assessed compensation qua loss of dependency to father of deceased, claimants No. 2 and 3 shall not be entitled to a sum of Rs.1,00,000.00 towards loss to estate.

Total compensation comes to Rs.8,93,780.00 (Rs.8,16,480.00 + Rs.30,000 + Rs.47,300.00) and additional amount is Rs.5,26,480.00 (Rs.8,93,780.00 – Rs.3,67,300.00), payable with interest @ 7.5% per annum from the date of petition till realization to father of the deceased.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

20.08.2018
mohan bimbura

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