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In the High Court of Punjab and Haryana at Chandigarh

FAO No. 6633 of 2015(O&M)
Date of Decision: 04.07.2018

Sukhpreet Kaur and others
---Appellants
versus

Inderjit Singh and others
---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Neeraj Khanna, Advocate
for the appellants
Mr. Sukhdarshan Singh, Advocate,
for the insurance company

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Rekha Mittal, J.

CM No. 20634-CII of 2015

Prayer in this application is for condoning delay of 171 days in filing the appeal.

In view of averments made in the application supported by affidavit of appellant No. 1 coupled with that provisions of the Motor Vehicles Act for grant of compensation are benevolent social legislation to save the victim family from the financial loss caused due to accident, the application is allowed, delay 171 days in filing the appeal stands condoned subject, however, to the condition that in case the compensation is enhanced, the applicants-appellants shall not be entitled to interest for the period of delay.

Disposed of accordingly.

Main case

The claimants are in appeal seeking enhancement of

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2018.07.09 12:07
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compensation on account of death of Harpreet Singh in a motor vehicular accident that took place on 17.5.2014.

The Motor Accidents Claims Tribunal, Ropar (in short "the Tribunal") has awarded compensation of Rs. 12,43,400/-, detailed hereunder:-

Monthly income of the deceased	Rs. 6000/-
Addition for future prospects	30%
Deduction for personal expenses	1/4th
Multiplier	17
Loss of dependency	Rs. 11.93,400/-
Funeral expenses	Rs. 10,000/-
Loss of consortium	Rs. 5000/-
Loss of estate	Rs. 5,000/-
Loss of care and guidance	Rs. 30,000/-

Counsel for the appellants would argue that as the deceased was engaged in agriculture and milk vending, he is required to be treated as a semi skilled labour and his income be assessed accordingly. In addition, it is argued that even minimum wage of an unskilled labour at the relevant time was Rs. 6,647/- per month. Claimants are entitled to addition in income for future prospects @ 40% as the deceased was 29 years old. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company has supported assessment made by the Tribunal except qua deduction for personal expenses. It is further argued that claimants have not produced on record any document with regard to ownership or possession of land by the deceased himself.

The claimants have produced on record documents with regard

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2018.07.09 12:07
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to land owned by father of the deceased and sale of produce through commission agent. Taking into consideration the minimum wage of an unskilled and semi skilled labour, income of the deceased is assessed at Rs. 6700/- per month. Claimants are allowed benefit of future prospects @ 40%. Multiplier adopted by the Tribunal is correct and affirmed. However, deduction for personal expenses would be 1/3rd as there is no evidence on record that Bahadur Singh aged about 52 years, father of the deceased was dependent upon his earning. In this manner, loss of dependency is calculated at Rs. 12,75,680/- [6700 x 12 x 17=13,66,800 + 5,46,720 (40%) =19,13,520 – 6,37,840(1/3rd)].

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitled to Rs. 70,000/-, detailed hereunder:-

Loss of consortium to widow	**Rs. 40,000/-**
Expenses on funeral	**Rs. 15,000/-**
Loss of estate	**Rs. 15,000/-**

Total compensation is Rs. 13,45,680/- and the additional amount is Rs. 1,02,280/- (13,45,680- 12,43,400), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 171 days to Manvir Singh, minor son of the deceased, to be invested in fixed deposit, payable on his attaining age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

04.07.2018
PARAMJIT Whether speaking/reasoned : Yes
Whether reportable : Yes/No