IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

237 FAO No.5800 of 2016 (O&M)
Date of decision: 27.07.2018

KAMLA ... Appellant

Versus

MANOJ AND OTHERS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Parminder Singh, Advocate
for the appellant.

Mr. Puneet Singh, Advocate for
Mr. Amit K. Goyal, Advocate
for the insurance company.

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REKHA MITTAL, J. (Oral)

CM-19899-CII-2016

Prayer in this application is for condonation of delay of 760 days in filing the appeal.

Reply to the application for condonation of delay filed on behalf of the insurance company in the Court, is taken on record.

In view of averments made in the application supported by affidavit of Smt. Kamla, mother of the deceased coupled with that the provisions of Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 760 days in filing the appeal is condoned subject to the condition that the claimant shall forgo interest for the period of delay in case compensation is enhanced.

Main Case

The claimant is in appeal seeking enhancement of compensation on account of death of her son Bhushan in a motor vehicular accident that took place on 03.09.2012.

The Tribunal has awarded compensation of Rs.6,16,500/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.4500/-
2. Addition in income for future prospects	50%
3. Multiplier	13
4. Deduction for personal expenses	50%
5. Loss of dependency	Rs.5,26,500/-
6. Transportation and funeral expenses	Rs.25,000/-
7. Loss of estate	Rs.15,000/-
8. Loss of love and affection	Rs.50,000/-

The plea of the claimant is that the deceased was working as a mason and earning Rs.10,000/- per month. Besides the bald statement of the claimant, there is no evidence to prove that the deceased was a mason and earning Rs.10,000/- per month. Taking into consideration the notification issued by the State of Haryana fixing minimum wage, income of the deceased is assessed at Rs.5000/- per month. Addition in income for future prospects would be 40% as against 50% allowed by the Tribunal. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. However, as the deceased was 22 years old, admissible multiplier would be 18. In this context, reference can be made to judgments of Hon'ble the Supreme Court **Munna Lal Jain and anr. vs. Vipin Kumar Sharma and**

ors., 2015 (3) SCC (Civil) 315, Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77 and **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**. In view of the above, loss of dependency is calculated at Rs.7,56,000/- [(Rs.5000 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)]

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimant shall be entitled to Rs.30,000/-, i.e. Rs.15,000/- for funeral expenses and Rs.15,000/- for loss of estate.

Total compensation is Rs.7,86,000/- and the additional amount of Rs.1,69,500/- (7,86,000 – 6,16,500) shall be payable with interest @7.5% per annum from the date of petition till realization except for the period of delay of 760 days in filing the appeal.

The appeal is partly allowed in the aforesaid terms.

27.07.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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