

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

237

FAO No.5983 of 2016 (O&M)

Date of decision: 18.07.2018

POOJA AND OTHERS

... Appellants

Versus

AJAY RANA AND ANR

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : None for the appellants.

Ms. Malvika, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

CM No.20421-CII of 2016

Prayer in this application is for condonation of delay of 456 days in filing the appeal.

In view of averments made in the application supported by affidavit of Smt. Pooja, widow 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 456 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 Om Parkash in a motor vehicular accident that took place on 08.09.2013.

The Tribunal has awarded compensation of Rs.8,36,240/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.5400/-
2. Addition in income for future prospects	30%
3. Multiplier	14

4. Deduction for personal expenses	1/3 rd
5. Loss of dependency	Rs.7,86,240/-
6. Expenses on funeral	Rs.20,000/-
7. Loss of consortium	Rs.20,000/-
8. Loss of love and affection	Rs.10,000/-

Counsel for the insurance company would urge that there is no justification for enhancement of compensation as the Tribunal has already allowed benefit of addition in income for future prospects @ 30% as against 25% admissible in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270.**

There is no representation on behalf of the claimants, earlier being represented by a counsel.

The plea of the claimants is that the deceased was an electrician and he was running electrician and motor winding shop in the village, earning Rs.15,000/- per month. The testimony of claimant Smt. Pooja with regard to avocation and income of the deceased does not find corroboration from any independent source much less documentary evidence. When the case is examined in the light of notification issued by the State of Haryana fixing minimum wage for different categories of worker available at the relevant time, there is no justification for enhancement of income of the deceased. The multiplier and deduction for personal expenses allowed by the Tribunal are correct and affirmed. As has been rightly argued by counsel for the insurance company, the Tribunal has allowed benefit of future prospects @ 30% as against 25% allowed in the judgment of Hon'ble the Supreme Court in **Pranay Sethi and others's case (supra)**. In this view of the matter, there is no justification for enhancement of compensation qua loss of dependency. However, compensation allowed under conventional heads is modified to the effect that 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/-

The additional amount of Rs.20,000/- shall be payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 456 days, to Deepak Kumar, minor son of the deceased, to be invested in a fixed deposit till he attains the age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

18.07.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No