IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.7242 of 2015 (O&M)
Date of decision: 06.09.2018

MANISHA AND ORS. ... Appellants

Versus

RAI SINGH AND ORS. ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sandeep K. Yadav, Advocate for the appellants.

Ms. Sanya Sapra, Advocate for Mr. Ashwani Talwar, Advocate for the insurance company.

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REKHA MITTAL, J. (Oral)

CM-22781-CII-2015

Prayer in this application is for condonation of delay of 1054 days in filing the appeal.

In view of averments made in the application supported by an affidavit of Smt. Manisha Devi, 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 1054 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 Manoj Kumar in a motor vehicular accident that took place on 05.12.2010.

The Tribunal has awarded compensation of Rs.9,92,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.6000/-
2. Multiplier	18
3. Deduction for personal expenses	1/4th
4. Loss of dependency	Rs.9,72,000/-
5. Expenses on funeral	Rs.5000/-
6. Loss of estate	Rs.5000/-
7. Loss of consortium	Rs.10,000/-

The plea of the claimants is that the deceased was earning Rs.10,000/- per month by working as a Welder. They examined Pawan Kumar PW3 and he deposed that Manoj Kumar was working as a Welder with Satguru Agro Engineering Works at salary of Rs.10,000/- per month. Pawan Kumar has admitted that he is an income tax payee but he failed to produce any record with regard to employment and income of Manoj Kumar. However, claimants placed on record welder certificate issued by Maharana Pratap Industrial Training Centre Exs.P12 and P13 to substantiate their plea that Manoj Kumar had obtained technical education in welding. Taking a clue from minimum wage of a skilled worker available at the relevant time, there is no justification for enhancement of income of the deceased over and above what has been allowed by the Tribunal.

However, claimants shall be entitle to benefit of future prospects @ 40%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.13,60,800/-[(Rs.6000 x 12 x 18) + (40% future prospects) – (1/4th deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal 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/-

Total compensation is Rs.14,30,800/- and the additional amount is Rs.4,38,800/- (14,30,800 - 9,92,000), payable with interest @7.5% per annum from the date of petition till realization, except for the period of delay of 1054 days in filing the appeal. The additional amount shall be shared by minor daughters of the deceased in equal ratio, to be invested in fixed deposit, payable on their attaining the age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

06.09.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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