

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

-.-

FAO 8839 of 2014 (O&M)
Date of decision: 10.12.2018

Brij Bhushan and others

.....Appellants

versus

Shah Hussain and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Mr. Vikas Kumar, Advocate
for the appellants

Mr. R C Kapoor, Advocate
for the insurance company

-.-

Rekha Mittal, J. (oral)

CM 24033 CII of 2014

Prayer in this application is for condoning delay of 926 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit and arguments advanced by counsel for the parties, the application is allowed and delay of 926 days in filing the appeal stands condoned subject to condition that in case the appeal is allowed, the appellants will forego interest for the period of delay.

Main case

The claimants are in appeal seeking enhancement of compensation on account of death of Sunita in a motor vehicular accident that took place on 17.03.2010.

The Tribunal has awarded compensation of Rs.4,18,000.00, detailed hereunder:-

Monthly value of services of the deceased	Rs.3,000.00
Deduction for personal expenses	1/3 rd
Multiplier	17
Loss of dependency	Rs.4,08,000.00
Funeral expenses	Rs.10,000.00

The Tribunal has assessed notional income of deceased at Rs.3,000.00 per month by treating her as a house maker. The deceased left behind family consisting of her husband and two minor sons Rahul and Tushar. Taking a clue from minimum wage available at the relevant time coupled with multifarious duties to be performed by a house maker, interest of justice would be served if notional income of deceased is assessed at Rs.6,000.00 per month. No deduction for personal expenses is to be made in the light of Division Bench judgment of this Court ***Paramjit Singh and another vs. Dilbagh Singh @ Bagga and others, 2013(3) Law Herald 2730***. In this manner, loss of dependency comes to Rs.6,000.00 x 12 x 17 = Rs.12,24,000.00.

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.70,000.00, in light of judgment of Hon'ble the Supreme Court ***National Insurance Company Limited vs. Pranay Sethi and others, 2017 SC 1270*** and latest judgment of three Judge Bench ***Sebastiani Lakra and others vs. National Insurance Company Limited and another*** (Civil Appeal No. 10588-89 of 2018 arising out of SLP (civil) 12359-12360 of 2018, decided

on 12.10.2018.

Total compensation comes to Rs.12,94,000.00 and additional amount is Rs.8,76,000.00 (Rs.12,94,000.00 – Rs.4,18,000.00) payable with interest @ 9% per annum from the date of petition till realization except for the period of delay of 926 days, to be shared by minors *Rahul* and *Tushar* in equal ratio, to be invested in FDR till they attain the age of majority or for a period of three years, whichever is later.

In view of the above, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

10.12.2018
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