IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

216 FAO No.8910 of 2014 (O&M)
Date of decision: 06.12.2018

SACHIN KHATERPAL & ANR. ... Appellants

Versus

RAJESH SINGH AND ORS. ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Deepak Manchanda, Advocate for the appellants.
Mr. Punit Jain, Advocate for the insurance company.

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REKHA MITTAL, J. (Oral)

CM-24220-21-CII-2014

Prayer in these applications is for condonation of delay of 201 days in refiling and 370 days in filing the appeal.

In view of averments made in the applications supported by affidavits of appellant No.1 and his counsel coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, applications are allowed and delay of 201 days in refiling and 370 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 Bhawna Khaterpal in a motor vehicular accident that took place on 07.12.2010.

The Tribunal has awarded compensation of Rs.11,13,517/-, detailed hereunder:-

1.	Monthly income of the deceased	Rs.22,000/-
2.	Addition in income for future prospects	50%
3.	Deduction towards income tax and surcharge	30%
4.	Annual income after deduction of income tax	Rs.2,77,200/-
5.	Deduction for personal and living expenses	Rs.50%

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6. Deduction of annual pension	Rs.53,000/-
7. Multiplier	16
8. Loss of dependency	Rs.13,69,600/-
9. Expenses on transportation of dead body	Rs.5000/-
10. Expenses on cremation and last rites	Rs.15000/-
11. Deduction towards insurance policy	Rs.2,76,083/-

The deceased was working as a Teacher in Rotary Public School, Sector 22, Gurgaon since November, 2006. Her last pay was Rs.21,706/- per month and annual income to be Rs.2,60,472/-. After deducing income tax to the tune of Rs.7047/-, net pay is Rs.2,53,425/-. The Tribunal has wrongly deducted annual pension and the same is set aside. Claimants have rightly been allowed addition in income for future prospects @ 50%. The application for compensation has been filed by the husband and minor child of the deceased. In the given circumstances, deduction for personal expenses would be 1/3rd. Multiplier of 16 applied by the Tribunal is correct and affirmed. Accordingly, loss of dependency is calculated at Rs.40,54,800/- [(2,53,425 x 16) + (50% future prospects) – (1/3rd deduction for personal expenses)].

Compensation allowed by the Tribunal under conventional heads is modified to the effect that claimants shall be entitle to Rs.1,10,000/-, detailed hereunder:-

1. Loss of consortium to both the claimants	Rs.80,000/- (Rs.40,000/- each)
2. Expenses on last rites	Rs.15,000/-
3. Loss to estate	Rs.15,000/-

Total compensation is Rs.41,64,800/-. After deducting an amount of Rs.2,76,083/- paid by the Iffco Tokio General Insurance Co. Ltd. on the basis of insurance policy obtained by employer of the deceased, compensation payable to the claimants comes to Rs.38,88,717/- (41,64,800 – 2,76,083). The additional amount is Rs.27,75,200/- (38,88,717 - 11,13,517) payable with interest @ 7.5% per annum from the date of petition till realisation except for the period of delay in refiling and filing the appeal. The additional amount shall be payable to minor claimant Sanya Khaterpal, to be invested in fixed deposit till she attains the age of majority or for a period of three years, whichever is later. Interest accruing on FDR

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shall be payable to father of the minor for meeting her expenses.

The appeal is disposed of in the aforesaid terms.

(REKHA MITTAL)
JUDGE

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

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