IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 8916 of 2014 (O&M)
Date of decision: 14.09.2018

Arfina and others .... *Appellants*

Versus

Aarif and others ....*Respondents*

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

-.-

Present: Ms Monika Jangra, Advocate/Amicus curiae
for the appellants

Mr. D K Prajapati, Advocate
for respondent No. 3

-.-

Rekha Mittal, J.

CM 24230 CII of 2014

Prayer in this application is for condoning delay of 284 days in filing the appeal.

In view of averments made in the application supported by an affidavit of one of the appellants namely Arfina and arguments advanced by counsel for the parties, the application is allowed and delay of 284 days in filing the appeal stands condoned, subject to condition that in case, the appellants succeed in appeal, they will forgo interest for the period of delay.

Main case

The claimants are in appeal seeking enhancement of compensation on account of death of Rehmat alias Rehmatullah in a motor vehicular accident that took place on 03.08.2011.

The Tribunal has awarded compensation of Rs.8,51,200.00, detailed hereunder:-

Monthly income of the deceased	Rs.4,500.00
Deduction for personal expenses	1/10th
Multiplier	17
Loss of dependency	Rs.8,26,000.00
Loss of consortium	Rs.10,000.00
Transportation of dead body	Rs.5,000.00
Funeral expenses	Rs.10,000.00

Counsel for the claimants would urge that the deceased was working as driver of vehicle bearing No. HR 27J-1445. The aforesaid vehicle was parked ahead of Sumer Petrol Pump due to mechanical defect and occurrence took place when the deceased and his co-passenger were checking the right side back tyres of the aforesaid vehicle. It is argued that income of the deceased may be assessed by considering him as a driver by profession. In addition, claimants are entitled to benefit of increase in income for future prospects and adequate compensation under conventional heads.

Counsel representing the insurance company would argue that claimants failed to adduce sufficient evidence with regard to avocation and income of the deceased. Deduction for personal expenses applied by the Tribunal needs to be corrected in the light of judgment of Hon'ble the Supreme Court ***Sarla Verma and others v. Delhi Transport Corporation and another 2009(3) R.C.R. (Civil) 77.***

There is no challenge to case of the claimants that the deceased sustained injuries when he was checking the aforesaid vehicle being driver thereof. Taking a clue from the notification issued by the State of Haryana, fixing minimum wages of various categories of workers, income of the deceased is assessed at Rs.5,000.00 per month. Claimants shall be entitled to addition in income for future prospects at the rate of 40%. Deduction for personal expenses would be 1/4th. Multiplier allowed by the Tribunal is correct and affirmed.

In view of the above, loss of dependency is Rs.10,71,000.00 (Rs.10,20,000.00 i.e. Rs.5,000 x 12 x 17 + Rs.4,08,000.00 (40% addition) – Rs.3,57,000.00 (1/4th deduction)).

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitled to Rs.70,000.00, in the light of judgment of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SC 1270***, detailed hereunder:-

Loss of consortium to widow	Rs.40,000.00
Expenses of funeral and last rites	Rs.15,000.00
Loss of estate	Rs.15,000.00

Total compensation is Rs.11,41,000.00 and additional amount is Rs.2,89,800.00 (Rs.11,41,000.00 – Rs.8,51,200.00) payable with interest at the rate of 7.5% per annum from the date of petition till realization except for the priod of delay of 284 days, to be shared by the minors in equal ratio, to be invested in fixed deposit till they attain the age of majority or for a period of three years, whichever is later. However, interest accruing on FDRs shall be payable to their mother for meeting their expenses.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

14.09.2018
mohan bimbra

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