

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 7411 of 2015(O&M)

Date of Decision: 11.5.2018

Sonia and others

---Appellants

versus

Charanjit Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Vipul Sharma, Advocate
for the appellants

Mr. Varun Sharma, Advocate,
for the insurance company

Rekha Mittal, J.

CM No.23261-CII of 2015

Prayer in this application is for condoning delay of 885 days in filing the appeal.

Counsel for the applicants-appellants would urge that recovery rights were given to the insurance company against which the owner and driver filed FAO No. 531 of 2013 wherein, vide order dated 13.2.2013 execution proceedings were stayed and as a consequence, claimants could not recover compensation till the decision of aforesaid FAO in October 2014. Recovery rights in favour of the insurance company were set aside by this court and thereafter, the insurance company paid compensation

allowed to the claimants. Due to paucity of funds, claimants could not file the appeal for enhancement of compensation. Another submission made by counsel is that as the claimants are entitled to just and reasonable compensation, in terms of the provisions of Section 166 of the Motor Vehicles Act, 1988 (in short "the Act") and series of judgments on the issue, technical consideration of delay should not be allowed to stand in the way of substantial justice. In addition, it is argued that claimants are ready to forego interest for the period of delay, therefore, no prejudice shall be caused to the insurance company in case the appeal is decided on merits.

Counsel representing the insurance company has opposed the prayer.

Taking into consideration the submissions made by counsel for the applicants-appellants coupled with the intent behind the provisions of Section 166 of the Act, I accept contention of counsel for the applicants-appellants that technicalities of procedure should not be allowed to stand in the way of claimants for adjudication of appeal on merits particularly in the circumstances that they are ready to forego interest for the period of delay.

For the foregoing reasons, application is allowed and delay of 885 days in filing the appeal stands condoned, subject, however, to the condition that in case, compensation is enhanced, claimants shall not be entitled to interest for the period of delay of 885 days.

Disposed of accordingly.

FAO No. 7411 of 2015

The Motor Accidents Claims Tribunal, Ambala (in short "the

Tribunal”) has awarded compensation of Rs.5,80,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 4500/-
Deduction for personal expenses	1/3 rd
Multiplier	15
Loss of dependency	Rs. 5,40,000/-
Expenses of transportation of dead body, funeral and last rites	Rs. 10,000/-
Loss of consortium	Rs. 10,000/-
Loss of estate	Rs. 10,000/-
Non-pecuniary damages	Rs. 10,000/-

The deceased was 38 years old on the basis whereof, multiplier of 15 has been applied. Claimants are entitled to benefit of increase in income for future prospects @ 40%. Income of the deceased, multiplier and deduction for personal expenses allowed by the Tribunal are affirmed. In this manner, loss of dependency comes to Rs. 7,56,000/- [4500 x 12 x15 =8,10,000 + 3,24,00(40%)=11,34,000 – 3,78,00(1/3rd)].

Under conventional heads, compensation awarded is modified to the effect that claimants are entitled to Rs. 70,000/-, detailed hereunder:-

Loss of consortium to widow	Rs. 40,000/-
Expenses on funeral	Rs. 15,000/-
Loss of estate	Rs. 15,000/-

Total compensation is Rs, 8,26,000/- and the additional amount is Rs. 2,46,000/- (8,26,000-5,80,000), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 885 days, to be invested in the names of minor claimants in equal

ratio till they attain age of majority or for three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

11.5.2018
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No