

FAO-9615-2014 (O&M)
FAO-9740-2014 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of Decision : 20.7.2018

FAO-9615-2014 (O&M)

Smt. Roshni and another

....Appellants

vs.

Naresh and others

....Respondents

FAO-9740-2014 (O&M)

Reena

....Appellant

vs.

Naresh and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Rakesh Lathwal, Advocate
for the appellant in FAO-9615-2014
for respondents No. 4 and 5 in FAO-9740-2014.

Mr. Surender Saini, Advocate
for the appellant in FAO-9740-2014.
For respondent No.4 in FAO-9615-2014.

Ms. Vandana Malhotra, Advocate
for respondent No.3-insurance company.

AJAY TEWARI, J. (Oral)

CM-26632-CII-2014 in FAO-9615-2014

For the reasons recorded, the application is allowed. Delay of 827 days in filing the appeal is condoned subject to the condition that the applicants-appellants would not be entitled to any interest for the period of delay.

CM-26914-CII-2014 in FAO-9740-2014

For the reasons recorded, the application is allowed. Delay of

810 days in filing the appeal is condoned subject to the condition that the applicants-appellants would not be entitled to any interest for the period of delay.

Main Cases

This order shall dispose of the aforesaid two appeals as arising out of the same accident.

These two appeals have been filed by the two appellants; one by the parents of the deceased and another by the wife of the deceased against the Award dated 30.4.2012 passed by the Motor Accident Claims Tribunal, Sonapat awarding an amount of Rs.4, 42,000/- with interest at the rate of 7.5% on account of death of deceased-Subhash.

Learned counsel for the appellant has argued that once it was proved that the deceased was a professional commercial driver the income which was claimed as Rs.5000/- was less but since this amount was claimed, the appellants would be satisfied if the income taken as Rs.5000/-. Counsel for the insurance company is not in a position to deny that in 2010 the minimum wages for skilled worker was more than Rs. 5000/-. In the circumstances, I deem it appropriate to take income as Rs.5000/-.

Counsel for the appellant further argues that in view of the Constitution Bench judgment of the Supreme Court in the matter of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*** 40% future prospects has to be granted. Counsel for the respondent No.3 is not in a position to deny this fact.

Counsel for the appellant further argues that under conventional heads Rs. 10,000/- has been granted whereas under Pranay

Sethi's case (supra) it has to be Rs. 70,000/-. Counsel for the respondent No.3 has accepted this.

Resultantly, this appeal stands disposed of with the modification in the Award that the income would be taken at Rs. 5000/- p.m., Rs.60,000/- more is granted under the conventional heads and future prospects of 40% had to be added to the income of the deceased. Interest would be same as ordered by the Tribunal.

In the appeal filed by the parents the claim of the father has been agitated. In my considered opinion, father could not be dependent on the son. Resultantly, compensation would have to be divided between widow and the mother in the same proportion as was granted by the Tribunal.

Since the main cases have been decided, the pending civil miscellaneous application, if any, also stands disposed of.

20.7.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No