In the High Court of Punjab and Haryana at Chandigarh

FAO No. 2422 of 2017(O&M)
Date of Decision: 24.4.2018

Ram Rati and others

---Appellants

versus

Dheeraj and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Susheel Gautam, Advocate
for the appellant

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Rekha Mittal, J.

CM No.8110-CII of 2017

Prayer in this application is for condoning delay of 43 days in filing the appeal.

In view of averments made in the application and arguments advanced, application is allowed and delay of 43 days in filing the appeal stands condoned.

Disposed of accordingly.

FAO No. 2422 of 2017

The claimants are in appeal seeking enhancement of compensation on account of death of Parveen in a motor vehicular accident that took place on 7.12.2014.

Sh. R.C.Gupta, Advocate, has caused appearance on behalf of respondent No. 2-insurance company. As the insurance company has been held liable to pay compensation without any right of recovery, service of respondent No. 1 is dispensed with.

The Motor Accidents Claims Tribunal, Panipat (in short "the Tribunal") has awarded compensation of Rs. 13,14,449/-, detailed hereunder:-

Monthly income of the deceased	Rs. 5640/-
Multiplier	17
Deduction for personal expenses	1/4th
Loss of dependency	Rs. 8,92,920/-
Loss of consortium	Rs. 1,00,000/-
Loss of love and affection	Rs. 1,00,000/-
Funeral expenses	Rs. 25,000/-
Medical expenses	Rs. 57,699 + Rs. 1,68,830/-

Counsel for the appellants has prayed for enhancement of compensation primarily on the ground that claimants are entitled to benefit of addition in income qua future prospects @ 40%.

Counsel representing the insurance company has assailed deduction for personal expenses on the premise that only claimants No. 1 and 2 are entitled to get compensation as the other claimants are the father and sister of the deceased, therefore, admissible deduction should be 1/3rd.

Indisputably, deceased was 30 years old and accordingly the Tribunal has applied multiplier of 17 for computing loss of dependency. In the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270,** claimants No. 1 and 2 shall be entitled to increase in income for future prospects @ 40%. As claimants No. 3 and 4 are the father and younger sister of the deceased, they cannot claim compensation in absence of any materials on record that father of the deceased was dependent upon income of the deceased. In the given scenario, admissible deduction for personal expenses would be 1/3rd. In this manner, loss of dependency comes to Rs. 10,73,856/- [5640 x12 x17=11,50,560 + 4,60,224 (40%)= 16,10,784 – 5,36,928 (1/3rd)].

Compensation awarded by the Tribunal under conventional heads is restricted 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/-**

Compensation of Rs. 57,699 and 1,68,830/- for medical expenses allowed by the Tribunal is affirmed.

Total compensation comes to **Rs.13,70,385/-** and the additional amount is **Rs. 55,936/-** (13,70,385-13,14,449), payable with interest @ 7.5% per annum from the date of petition till realization to Khushi, minor daughter of the deceased, to be invested in fixed deposit payable on her attaining age of majority or for a period of three years, whichever is later. Interest accruing on the FDR shall be paid to the mother for meeting expenses on her education and living.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

24.4.2018
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No