

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No. 443 of 2017 (O&M)
Date of decision : December 03, 2018

Smt. Anokhi Devi

..... Appellant

v.

Jaswant Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Naveen Sharma, Advocate
for the appellant.

Ms. Shamsher Kaur, Advocate
for respondent No.3.

Ajay Tewari, J (Oral)

C.M No.1458 CII of 2017

For the reasons recorded, this application is allowed and delay
of 5 days in refiling the appeal is condoned.

C.M No.1459 CII of 2017

This is an application for condonation of delay of 1114 days in
filing the appeal. Reply has been filed. For the reasons recorded, this
application is allowed and delay is condoned. It is, however, clarified that
the appellant would not be entitled to interest for the said period, in case the
compensation is enhanced.

FAO No.443 of 2017

This appeal has been filed for enhancement of compensation on

account of death of Kamal Chand in a road vehicular accident on 10.1.2012.

Since the issue involved in this appeal is only of quantum, further reference to the detailed facts would not be necessary.

Counsel for the appellant has argued that the Tribunal has applied the multiplier as per the age of the mother, whereas it should have been applied as per the age of the deceased. Counsel for the respondent is not in a position to dispute this. Consequently, I direct that multiplier in this case would be 17.

Counsel for the appellant has further argued that the Tribunal has granted 30% as future prospects and in view of the decision of the Supreme Court in National Insurance Company Limited vs Pranay Sethi and others, 2017(4) RCR (Civil) 1009, future prospects of 40% should be awarded. I find merit in this argument and grant 40% as future prospects.

Counsel for the respondent, however, points out that the Tribunal has erred in taking the monthly income of the deceased as ₹ 6000/-. As per her, at the relevant time, as per the schedule attached to the Minimum Wages Act as applicable to the State of Punjab, the monthly income of a highly skilled person was ₹ 5443/- say ₹ 5500/-. Counsel for the appellant is not in a position to dispute that. Consequently, I take the monthly income of the deceased as ₹ 5500/-.

Counsel for the appellant has further argued that only a sum of ₹ 5,000/- has been awarded under conventional head. I find merit in this argument and award ₹ 65,000/- more under this head in view of the decision of the Supreme Court in National Insurance Company Limited vs Pranay Sethi and others, 2017(4) RCR (Civil) 1009.

Counsel for the appellant has further argued that the Tribunal

has granted interest @ 7.50% pa and in view of the decision of the Supreme Court in Magma General Insurance Company Ltd vs Nanu Ram @ Chuhru Ram and others, 2018(4) RCR (Civil) 333, interest @ 12% pa has to be granted. I find force this argument also and direct that the enhanced amount would carry interest @ 12% pa from the date of application till the date of payment. The remaining award shall remain unchanged. This appeal stands disposed of.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

December 03, 2018
`kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No