

**CM No. 25213-CII of 2018 in/and
FAO- 1014 of 2004**

PARAMJIT KAUR SAINI
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In the High Court of Punjab and Haryana at Chandigarh

**CM No. 25213-CII of 2018 in/and
FAO- 1014 of 2004 (O&M)
Date of Decision: 21.8.2019**

Rakesh and another

---Appellants

versus

Satpal and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. R.N.Lohan, Advocate
for the appellants**

**Mr. Dev Kaushik, Advocate,
for Mr. Rakesh Nehra, Advocate
for respondents No. 1 and 2**

**Mr. Neeraj Khanna, Advocate
for Mr. Ravinder Arora, Advocate
for respondent No. 3**

**Mr. Rajesh Hooda, Advocate
for respondent No. 4**

Rekha Mittal, J.

CM No. 25213-CII of 2018

Prayer in this application is for early hearing of the appeal.

Counsel for the non-applicants-respondents have got no
objection if the appeal is taken on Board today itself.

In view of the above, the appeal (FAO No. 1014 of 2004) is
taken on Board today itself.

Disposed of accordingly.

CM No. 3456 CII of 2004

Prayer in this application is for condoning delay of 174 days

in filing the appeal.

In view of averments made in the application supported by affidavit of the appellant coupled with that provisions of the Motor Vehicles Act for grant of compensation are benevolent social legislation to save victim family from financial loss caused due to accident, the application is allowed, delay of 174 days in filing the appeal stands condoned subject, however, to the condition that in case the compensation is enhanced, the applicants-appellants shall not be entitle to interest for the period of delay.

FAO No. 1014 of 2004

The claimants are in appeal seeking enhancement of compensation on account of death of Rajeev alias Kala son of Tasbir Singh in a motor vehicular accident that took place on 5.11.1998.

The Motor Accidents Claims Tribunal, Jhajjar (in short “the Tribunal”) awarded Rs.28,800/- (rounded off to Rs. 29,000/-) to claimant Rakesh and Rs. 48,000/- to Parvesh, minor brothers of deceased.

The Tribunal assessed income of the deceased at Rs. 2400/- per month and deducted 1/3rd for personal and living expenses of the deceased. Since Rakesh would have attained age of majority on 9.1.2001, he was awarded compensation of Rs. 28,800/- and Parvesh was to attain age of majority on 9.1.2003, he was awarded Rs. 48,000/-.

The claimants are minor brothers of deceased who had already lost their parents and as such they are entitle to compensation qua loss of dependency. There is no clear evidence on record with regard to income of deceased. Taking a clue from notification issued by the State of Haryana fixing minimum wage, income of deceased is assessed at Rs. 1800/- per month. Deduction for personal and living expenses allowed by the Tribunal

is correct and affirmed. Claimants shall be entitle to increase in income for future prospects @ 40% as the deceased was less than 30 years of age. Admissible multiplier for computing loss of dependency is 17. In this manner, loss of dependency is calculated at Rs. 3,42,720/- [1800 x 12 x17 =3,67,200 + 1,46,880 (40%) = 5,14,080 – 1,71,360 (1/3rd)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs. 20,000/-, detailed hereunder:-

Expenses on funeral	Rs. 10,000/-
Loss of estate	Rs. 10,000/-

Total compensation is Rs. 3,62,720/- and the additional amount is Rs. 2,85,920/- (3,62,720- 76,800), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 174 days, to be shared by the claimants equally. All other terms and conditions of the award shall remain intact.

In view of what has been discussed hereinbefore, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

21.8.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No