IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

209 FAO No.4859 of 2011 (O&M)

Date of decision: 07.05.2019

PARAMJIT KAUR AND ORS ... Appellants

Versus

YUVRAJ SINGH AND ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : None for the appellants.
Mr. Rajpaul Kansal, Advocate for respondent No.1.
Ms. Hasan Kaur, Advocate for
Ms. Anamika Mehra, Advocate for the insurance company.

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REKHA MITTAL, J. (Oral)

CM-18280-CII-2011

Prayer in this application is for condonation of delay of 1969 days in filing the appeal.

In view of averments made in the application supported by an affidavit of appellant No.1-Paramjit Kaur coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, there is nothing on record suggestive of the fact that delay in filing the appeal is either intentional much less actuated by malice, no third party interest has been created during the intervening period to say that in case the appeal is allowed, the same would be prejudicial to interest of that party, application is allowed and delay of 1969 days in filing the appeal is condoned subject to the condition that the claimants shall forgo interest for the period of delay, in case compensation is enhanced.

Main Case

The claimants are in appeal seeking enhancement of compensation on account of death of Balkar Singh in a motor vehicular accident that took place on 18.12.2001.

The Tribunal awarded Rs.5,28,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.6000/-
2. Multiplier	11
3. Deduction for personal expenses	1/3rd
4. Loss of dependency	Rs.5,28,000/-

The plea of claimants is that Balkar Singh was the sole bread earner of the family being an agriculturist. There is nothing on record suggestive of the fact that the appellants produced any documentary evidence with regard to land holding owned or/and possessed by Balkar Singh. In the given scenario, there is no justification for enhancement of income of the deceased.

The deceased is held to be 42 years old on the basis of postmortem report. Claimants shall be entitle to addition in income for future prospects @ 25%. The application for compensation has been filed by the widow, three minor children and mother of the deceased. Deduction for personal expenses, in the light of judgment of Hon'ble the Supreme Court **Sarla Verma & Ors VS Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77** would be $1/4^{th}$. The multiplier applied by the Tribunal is modified to the tune of 14 in the light of judgment in **Sarla Verma and others's case (supra)**. In this manner, loss of dependency is calculated at Rs.9,45,000/- [(6000 x 12 x 14) + (25% future prospects) – ($1/4^{th}$ deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.70,000/-, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

Total compensation is Rs.10,15,000/- and the additional amount is Rs.4,87,000/- (10,15,000 - 5,28,000), payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 1969 days in filing the appeal, to widow of the deceased, to be invested in fixed deposit for a period of three years.

The appeal is partly allowed in the aforesaid terms.

07.05.2019 **(REKHA MITTAL)**
ashok **JUDGE**

Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No