

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

225

FAO No.3077 of 2013 (O&M)

Date of decision: 13.09.2019

KOMILA AND OTHERS

... Appellants

Versus

AKLESH AND OTHERS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Vikas Lochab, Advocate for the appellants.
Mr. Lalit Garg, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

CM No.4334-CII of 2016

Prayer in this application is for condonation of delay of 100 days in filing the application for restoration of appeal.

In view of averments made in the application supported by an affidavit of counsel for the appellants coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 100 days in filing the application for restoration of appeal is condoned subject to the condition that the claimants shall forgo interest for the period of delay, in case compensation is enhanced.

CM No.4335-CII of 2016

Heard.

For reasons contained in the application, same is allowed; order dated 16.10.2015 is recalled and the appeal is restored to its original number and stage and taken up on board today itself.

Main Case

The claimants are in appeal seeking enhancement of compensation on account of death of Braham Parkash @ Bhola in a motor vehicular accident that took place on 27.05.2011.

The Tribunal awarded Rs.6,68,000, detailed hereunder:-

Monthly income of the deceased	Rs.5400/-
Multiplier	15
Deduction for personal expenses	1/3 rd
Loss of dependency	Rs.6,48,000/-

Expenses on funeral and transportation	Rs.10,000/-
Loss of consortium	Rs.10,000/-

The plea of claimants is that deceased was a property dealer and used to earn Rs.15,000/- per month. The Tribunal has noticed that claimants failed to produce sufficient evidence to substantiate their plea with regard to avocation and income of the deceased. When the case is examined in the light of notification issued by the State of Haryana fixing minimum wage, there is no scope for increasing income of the deceased. As the deceased was held to be 40 years old on the basis of postmortem report and claimants failed to adduce clear evidence with regard to his date of birth, admissible increase for future prospects would be 25%. The claim has been filed by the widow, two minor sons and mother of the deceased. The admissible deduction would be 1/4th. Multiplier applied by the Tribunal is correct and affirmed. In this manner, loss of dependency is calculated at Rs.9,11,250/- [(5400 x 12 x 15) + (25% future prospects) – (1/4th 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.9,81,250/- and additional amount is Rs.3,13,250/- (9,81,250 - 6,68,000) payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 100 days in filing application for restoration of the appeal, to be paid to minor claimants in equal proportion, to be invested in fixed deposit till they attain majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

13.09.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No