

FAO No.4637 of 2013 (O&M)

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

FAO No.4637 of 2013 (O&M)
Date of decision: 04.09.2019

Suresh Kumar and others

.....Appellants

versus

Ramesh Kumar and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Ashwani Bhardwaj, Advocate,
for the appellants.

Mr. Radhe Shyam Sharma, Advocate,
for respondent No.2.

RAMENDRA JAIN, J. (ORAL)

CM-19632-CII of 2013

Through this application under Section 5 of the Limitation Act prayer has been made for condonation of 125 days' delay in filing the appeal.

Heard.

For the reasons mentioned in the application, same is allowed. Delay of 125 days in filing the appeal is condoned.

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Through this appeal, the appellants-claimant have sought enhancement of compensation against the death of Smt. Sangeeta, wife of

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appellant No. 1 and mother of appellants No.2 and 3, on 30.08.2011 in a motor vehicular accident, by modifying impugned Award dated 03.01.2013 of the Motor Accident Claims Tribunal, Rohtak (for short 'the Tribunal').

Briefly, in the day time of 30.08.2011, deceased Sangeeta as a pillion rider on Activa bearing registration No.HR-12-E-5039 driven by her father Rattan Singh, when reached in front of gate No.2 of New Grain Market, Rohtak, trailer bearing registration No.HR-56-3522, driven in a rash and negligent manner by respondent No.1 suddenly appeared on the road and struck against left side of their scooter. As a result thereof, deceased Sangeeta received multiple grievous injuries on her person. Their scooter had also got damaged. Sangeeta succumbed to her injuries on the way to PGIMS Rohtak.

With these broad submissions, her husband and children filed a claim petition under Section 166 of the Act before the Tribunal claiming compensation of ₹35,00,000/- along with interest at the rate of 9% per annum from the date of accident till realization.

After holding trial, the Tribunal awarded compensation of ₹70,248/-, deducting the amount of ₹40,74,336/- to be paid to the appellants under Rule 5.1 of the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 out of total compensation amount of ₹41,19,584/- along with interest at the rate of 6% per annum from the date of filing the claim petition till realization.

Both the parties are *ad idem* that this appeal has to be

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decided in accordance with the principles laid down in **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009.**

Learned counsel for the appellants contends that the Tribunal has not taken into account the GPF and GIS amount while calculating compensation.

Learned counsel for respondent No.2 – Insurance Company has not been able to refute above submission by citing any contrary law.

As per calculations (Mark A) furnished by learned counsel for the claimant-appellants, which is taken on record, the total amount of compensation payable to claimant-appellants, according to **Pranay Sethi's case (supra)**, comes to ₹10,64,200/- over and above the compensation awarded by the learned Tribunal.

Learned counsel for respondent No. 2-Insurance Company has not been able to controvert or point out any infirmity in the above calculations (Mark-A). Hence, the same is accepted.

In view of the above, the claimant-appellants are held entitled to compensation of ₹10,64,200/- over and above the amount already awarded by the learned Tribunal, vide Award impugned herein. Respondent No. 2-Insurance Company, through its counsel is directed to deposit the aforesaid enhanced amount of compensation before the learned Tribunal within one month from today, along with up-to-date interest @ 7.5% per annum from the date of filing of claim petition till realization, for onward disbursement to the claimant-appellants, in

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proportion so arrived at by it, in accordance with law against proper receipt and identification.

In case aforesaid enhanced amount is not deposited within stipulated time, Insurance Company would be liable to pay the same with interest @18% from the date of institution of claim petition till realization.

Disposed of .

September 04, 2019
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No