

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

-.-

FAO 1863 of 2016 (O&M)

Date of decision: 21.08.2019

Manju Devi and others

.....Appellants

Versus

Jagdish and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Yash Dev Kaushik, Advocate
for the appellants

Mr. Vikas Chatrath, Advocate
for respondent No. 3

Ms Alisha Arora, Advocate
for respondent No. 4

-.-

Rekha Mittal, J. (Oral)

CM 10112-CII of 2018

Reply to application (CM 7062 CII of 2016) filed on behalf of
the applicant/respondent No. 4 is taken on record.

Disposed of accordingly.

CM 7062 CII of 2016

Prayer in this application is for condonation of delay of 540
days in re-filing the appeal.

Heard.

In view of averments made in the application supported by an
affidavit of counsel for the applicants, the application is allowed and delay
of 540 days in re-filing the appeal stands condoned, subject to condition that
in case the applicants succeed in appeal, they will forego interest for the
period of delay.

The application stands disposed of.

CM 7063 CII of 2016

Prayer in this application is for condoning delay of 294 days in filing the appeal.

Heard.

In view of the averments made in the application supported by affidavit of one of the applicants, the application is allowed and delay of 294 days in filing the appeal stands condoned, subject to condition that in case the applicants succeed in appeal, they will forego interest for the period of delay.

The application stands disposed of.

Main case

The claimants are in appeal seeking enhancement of compensation on account of death of Dayanand alias Raju in a motor vehicular accident that took place on 10.12.2008.

The Tribunal awarded Rs.9,00,000/-, detailed hereunder:-

-Monthly income of the deceased	Rs.3,500/-
-Addition in income for future prospects	50%
-Deduction for personal expenses	1/4 th
-Multiplier	18
-Loss of dependency	Rs.8,60,500/-
-Loss of consortium	Rs.20,000/-
-Loss of estate	Rs.10,000/-
-Funeral expenses	Rs.9,500/-

The plea of claimants is that the deceased was working as driver and clerk with Shri Jeet Singh Bhatti, Advocate, District Faridabad, examined as a witness but he failed to produce any documentary evidence to prove that the deceased was working with him either as a driver or a clerk. Even driving licence of the deceased has not been produced on record. In the given circumstances, the Tribunal has rightly refused to rely upon testimony of Shri Jeet Singh Bhatti, Advocate (PW3). Taking a clue from

notification issued by the State of Haryana fixing minimum wage at the relevant time, income of deceased is assessed at Rs.3,800/- per month. The claimants shall be entitle to addition in income for future prospects @ 40%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. As such, loss of dependency comes to Rs.8,61,840/- (Rs.8,20,800/- i.e. $3800 \times 12 \times 18$ + Rs.3,28,320/- (40% addition) – Rs.2,87,280/- (1/4th deduction).

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.70,000.00 (Rs.40,000.00 for loss of consortium, Rs.15,000.00 each qua loss to estate and funeral expenses), in the light of judgments of Hon'ble the Supreme Court *National Insurance Company Limited v. Pranay Sethi and others, 2017 SCC 1270* and *Sebastiani Lakra and others vs. National Insurance Company Limited and another, 2018 AIR (SC) 5034*.

In view of the above, total compensation is Rs.9,31,840/- and additional amount is Rs.31,840/- (9,31,840 - 9,00,000) payable with interest at the rate of 7.5% per annum from the date of petition till realization except for the period of delay in filing/re-filing the appeal to minor children of the deceased, to be invested in fixed deposit till they attain age of majority or for a period of three years which ever is later.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

21.08.2019
Mohan Bimbura

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No8