

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 2897 of 2015(O&M)

Date of Decision: 13.5.2019

Rukman and others

---Appellants

versus

Najar Hussain and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. H.R.Bhardwaj, Advocate
for the appellants**

None for respondents No. 1 and 2

**Mr. Satpal Dhamija, Advocate,
for the insurance company**

Rekha Mittal, J.

CM No.8825-CII of 2015

Prayer in this application is for condoning delay of 266 days
in refiling 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 the
victim family from financial loss caused due to accident, the application is
allowed, delay of 266 days in refiling 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.

Disposed of accordingly.

CM No. 8826-CII of 2015

Prayer in this application is for condoning delay of 1 day in

filing the appeal.

Allowed as prayed for. Delay of 1 day in filing the appeal stands condoned.

Disposed of accordingly.

Main case

The claimants are in appeal seeking enhancement of compensation on account of death of Hakam Singh in a motor vehicular accident that took place on 13.6.2012.

The Motor Accidents Claims Tribunal, Kaithal (in short “the Tribunal”) awarded Rs.8,16,800/-, detailed hereunder:-

Monthly income of the deceased	Rs. 5400/-
Deduction for personal expenses	1/4 th
Multiplier	16
Loss of dependency	Rs. 7,96,800/-
Funeral expenses	Rs. 10,000/-
Loss of consortium	Rs. 10,000/-

The plea of claimants is that the deceased was driver by profession thereby earning Rs. 15,000/- per month. Counsel for the appellants would apprise the court that the deceased sustained injuries while driving Qualis bearing No. HR-57-3406. The Tribunal has assessed income of the deceased at Rs. 5400/- per month. When the case is examined in the light of notification issued by the State of Haryana, there is no scope for enhancement in income of the deceased. The claimants shall be entitle to increase in income for future prospects @ 40%. Multiplier applied by the Tribunal is correct and affirmed.

The application for compensation has been filed by the widow, minor daughter and parents of the deceased. There is nothing on record

suggestive of the fact that father of deceased had any disability to render him dependent on income of the deceased. In the given circumstances, admissible deduction would be $1/3^{\text{rd}}$. In this manner, loss of dependency is calculated at Rs.9,67,680/- [$5400 \times 12 \times 16 = 10,36,800 + 4,14,720$ (40%) $= 14,51,520 - 4,83,840$ ($1/3^{\text{rd}}$)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs. 70,000/- in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270** and **Sebastiani Lakra and others vs. National Insurance Company Limited and another AIR 2018 SC 5034**, detailed hereunder:-

Loss of consortium to widow Rs. 40,000/-

Expenses on funeral Rs. 15,000/-

Loss of estate Rs. 15,000/-

Total compensation is Rs. 10,37,680/- and the additional amount is Rs.2,20,880/- - (10,37,680-8,16,800), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 266 days in refiling the appeal to widow and minor child of the deceased in the ratio 40:60. The amount falling to share of minor child shall be invested in fixed deposit till she attains the age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

13.5.2019

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