

In the High Court of Punjab and Haryana at Chandigarh

FAO- 5934 of 2013 (O&M)

Date of Decision: 11.7.2019

Gurmit Kaur and others

---Appellants

versus

Mohan Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Gopal Sharma, Advocate
for the appellant**

None for the insurance company

Rekha Mittal, J.

CM No. 24464-CII of 2013

Prayer in this application is for condoning delay of 337 days in filing the appeal.

In view of averments made in the application supported by affidavit of the appellant (Gurmit Kaur) 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 337 days in filing 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.

FAO- 5934 of 2013

The claimants are in appeal seeking enhancement of compensation on account of death of Surjit Singh in a motor vehicular accident that took place on 25.11.2007.

The Motor Accidents Claims Tribunal, Fatehgarh Sahib (in short “the Tribunal”) awarded Rs. 4,14,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 3000/-
Deduction for personal expenses	1/3 rd
Multiplier	17
Loss of dependency	Rs. 4,08,000/-
Funeral expenses	Rs. 2000/-
Loss of consortium	Rs. 4,000/-

Counsel for the appellants would argue that deceased was working as helper/cleaner on a truck thereby earning Rs. 3300/- per month. The Tribunal without assigning any reason much less to discard plea of the claimants, has assessed income of the deceased at Rs. 3000/- as against Rs. 3300/- per month. Adequate compensation may be allowed under conventional heads.

The Tribunal, in para 13 of the award, has noticed that Gurmit Kaur widow of deceased appeared in the witness box. As has rightly been argued by counsel for the appellants, the Tribunal has not assigned any reason to reject plea of the claimants with regard to income of the deceased at Rs. 3300/- per month. The minimum wage at the relevant time was much more than Rs. 3300/- per month. As such, monthly income of the deceased is assessed at Rs. 3300/-. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs. 4,48,800/- [3300 x 12 x 17 = 6,73,200 – 2,24,400 (1/3rd)].

Under conventional heads, claimants shall be entitle to Rs.

9500/-, detailed hereunder:-

Expenses on funeral	Rs. 2,000/-
Loss of consortium	Rs.5000/-
Loss of estate	Rs. 2500/-

Total compensation is Rs. 4,58,300/- and the additional amount is Rs. 44,300/- (4,58,300- 4,14,000), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 337 days in filing the appeal, to minor son of the deceased, to be invested in fixed deposit till he 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

11.7.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No