

In the High Court of Punjab and Haryana at Chandigarh

FAO- 317 of 2016(O&M)
Date of Decision: 22.1.2019

Shimla Rani and others

---Appellants

versus

Gurdev Singh and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. M.S.Dua, Advocate
for Mr. Parvez Chugh, Advocate
for the appellants

Mr. D.P.Gupta, Advocate,
for the insurance company

Rekha Mittal, J.

CM No. 901-CII of 2016

Prayer in this application is for condoning delay of 42 days in
refiling the appeal.

In view of averments made in the application supported by
affidavit of Sh. Parvez Chugh, Advocate, counsel for the applicants and
arguments advanced, application is allowed and delay of 42 days in refiling
the appeal stands condoned.

Disposed of accordingly.

CM No. 902-CII of 2016

Prayer in this application is for condoning delay of 392 days
in filing the appeal.

In view of averments made in the application supported by affidavit of appellant No. 1 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 392 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- 317 of 2016

The claimants are in appeal seeking enhancement of compensation on account of death of Harbans Singh in a motor vehicular accident that took place on 10.2.2013.

The Motor Accidents Claims Tribunal, Fazilka (in short “the Tribunal”) has awarded compensation of Rs.10,15,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 7500/-
Deduction for personal expenses	1/3 rd
Multiplier	14
Loss of dependency	Rs. 8,40,000/-
Funeral expenses	Rs. 25,000/-
Loss of love and affection to children	Rs. 1,00,000/-
Loss of consortium	Rs. 50,000/-

The plea of the claimants is that deceased was working with M/s Friend Agro Industries at salary of Rs. 25,000/- per month and employment certificate of deceased is Ex. P3. Vikram Kumar PW3 was

examined to prove that Harbans Singh was working as Accountant in a sheller. The Tribunal, in para 15 of the award, has noticed that Ex. P3 does not contain the amount paid as salary to Harbans Singh. Ex. P3 is a hand written letter purportedly issued by one of the partners of Friend Agro Industries without any documentary proof that Harbans Singh was drawing salary of Rs. 20,000/- per month from the said concern.

Counsel for the appellants has not disputed factual findings recorded by the Tribunal. In the given circumstances, Tribunal has rightly refused to rely upon plea of the claimants that deceased was getting salary of Rs. 20,000/- from M/s Friend Agro Industries. Income of deceased assessed by the Tribunal is not less than the minimum wage available at the relevant time and accordingly the same is affirmed. Claimants shall be entitle to addition in income for future prospects @ 25%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs. 10,50,000/- $[7500 \times 12 \times 14 = 12,60,000 + 3,15,000(25\%) = 15,75,000 - 5,25,000(1/3^{\text{rd}})]$.

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	Rs. 40,000/-
Expenses on funeral	Rs. 15,000/-

Loss of estate Rs. 15,000/-

Total compensation is Rs. 11,20,000/- and the additional amount is Rs. 1,05,000/- (11,20,000-10,15,000), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 392 days in filing the appeal.

The Tribunal has awarded conditional interest on compensation to the tune of Rs. 10,15,000/- assessed in favour of the claimants. The Tribunal has not assigned any reason to deny interest from the date of petition till realization or extending concession for non-payment of interest in case compensation is paid within two months from the date of award. As the claimants are held entitle to compensation, they become entitle to interest from the date of filing of claim application unless there are exceptional circumstances obtaining in a case to deny interest from a particular date. As such, findings of the Tribunal allowing conditional interest are modified to the effect that claimants shall be entitle to interest @ 9% per annum on Rs. 10,15,000/- from the date of petition till realization.

In view of what has been discussed hereinbefore, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

22.1.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No