

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

FAO No. 4588 of 2015(O&M)

Date of decision: 28.5.2019

Parveen and othersAppellants

VERSUS

Samunder and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Navmohit Singh, Advocate for the appellants.

Mr. Pradeep Kumar, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

CM No.14525-CII of 2015

Prayer in this application is for condonation of delay of 149 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Parveen- appellant No.1, the application is allowed and delay of 149 days in filing the appeal stands condoned, subject to the condition that in case the appellants succeed in appeal, they will forgo interest for the period of delay.

Disposed of accordingly.

FAO No.4588 of 2015

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Sonipat

(in short 'the Tribunal') on account of death of Virender in a motor vehicular accident that took place on 29.05.2011.

The Tribunal awarded Rs.7,70,000/- detailed hereunder:-

Monthly income of the deceased	Rs.5000/-
Deduction for personal expenses	1/4 th
Multiplier	16
Loss of dependency	Rs.7,20,000/-
Loss of consortium	Rs.20,000/-
Expenses on funeral and transportation	Rs.10000/-
Loss to estate	Rs.20000/-

The plea of claimants is that the deceased was an agriculturist and doing dairy farming thereby earning Rs.25000/- per month. The Tribunal has noticed that except bald statement made by Smt. Parveen, widow of the deceased, there is no evidence much less documentary to substantiate plea of the claimants with regard to avocation and income of the deceased. The Tribunal has assessed income of the deceased at Rs.5000/- per month by treating him as an unskilled labour and the same is affirmed. Deduction for personal expenses and multiplier allowed by the Tribunal are correct and affirmed. Claimants shall be entitle to addition in income for future prospects at the rate of 40%. In this manner, loss of dependency comes to Rs.10,08,000/- [Rs.9,60,000/- (Rs.5000 x 12 x 16) + Rs.3,84,000/- (40% future prospects) – Rs.3,36,000/- (1/4th deduction towards personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that the claimants shall be entitle to Rs.70,000/- detailed hereunder:-

Loss of consortium to the widow	Rs.40,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-

In view of the above, total compensation comes to Rs.10,78,000/- and the additional amount is Rs.3,08,000/- (Rs.10,78,000/- - Rs.7,70,000/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization except for the period of delay of 149 days in filing the appeal, to minor children of the deceased in equal ratio, to be invested in fixed deposit till they attain the age of majority or for a period of three years, whichever is later. Interest accruing on the fixed deposit shall be payable to their mother for meeting expenses on their living and education.

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

MAY 28, 2019
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no