

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

-.-

FAO 5407 of 2015 (O&M)

Date of decision: 29.08.2019

Sumitra Devi and others

.....Appellants

Versus

Somvir and another

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. S K Yadav, Advocate
for the appellants

Mr. R K Bashamboo, Advocate
for respondent 2/insurance company

-.-

Rekha Mittal, J. (Oral)

CM 17070 CII of 2015

Prayer in this application is for condoning delay of 29 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit and arguments advanced, the application is allowed and delay of 29 days in filing the appeal stands condoned.

Main case

The claimants are in appeal seeking enhancement of compensation on account of death of Hawa Singh in a motor vehicular accident that took place on 29.03.2014.

The Tribunal awarded Rs.23,80,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.20,000.00
Multiplier	13
Deduction for personal expenses	1/4th
Loss of dependency	Rs.23,40,000.00
Transportation and last rites	Rs.15,000.00
Loss of consortium	Rs.25,000.00

The plea of claimants is that the deceased was a Principal in SJRD College Pali at salary of Rs.40,000/- per month. He was earning Rs.20,000/- per month by giving tuition to students. Deshraj (PW6) was examined to prove employment and salary of deceased as Principal of aforesaid College of Education. The Tribunal has noticed that salary certificate Ex.PW6/A reveals that Hawa Singh was getting salary of Rs.20,000.00 per month and he was paid Rs.20,000.00 extra for running administration of BJRD Public School.

Counsel for the appellants, in response to a query, would fairly inform that there is no evidence on record with regard to payment of Rs.20,000.00 to the deceased in respect of looking after administration of BJRD Public School. In the given circumstances, income of the deceased assessed by the Tribunal is liable to be affirmed and ordered accordingly. Claimants shall be entitle to addition in income for future prospects at the rate of 25%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency comes to Rs.29,25,000.00 (31,20,000 i.e. 20,000 x 12 x 13 + Rs.7,80,000 (25% addition) - Rs.9,75,000.00 (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*.

Total compensation is Rs.29,95,000/- and additional amount is Rs.6,15,000/- (29,95,000 – 23,80,000) payable with interest @ 7.5% per annum from the date of petition till realization to widow of the deceased, to be invested in fixed deposit for a period of three years.

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

(Rekha Mittal)

Judge

29.08.2019

Mohan Bimbura

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