IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

-.-

Date of decision: 12.03.2019

FAO 4684 of 2016 (O&M)

Bimla Devi and others ....*Appellants*

Versus

Ramesh Kumar and others ....*Respondents*

FAO 6332 of 2016 (O&M)

Bimla Devi and others ....*Appellants*

versus

Ramesh Kumar and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. J P Sharma, Advocate
for the appellants

Mr. Punit Jain, Advocate
for the respondent- insurance company

-.-

Rekha Mittal, J. (Oral)

CM 16013 CII of 2016

Prayer in this application is for condonation of delay of 108 days in filing the appeal.

Heard.

In view of the averments made in the application supported by affidavit of Bimla Devi, one of the applicants, the application is allowed and delay of 108 days in filing the appeal stands condoned, subject to condition that in case the appellants succeed in appeal, they will forego interest for the period of delayed.

The application stands disposed of.

Main case

This order will dispose of aforesaid appeals as these have emerged out of the same award dated 29.10.2015 passed by the Motor Accidents Claims Tribunal, Narnaul (in short, 'the Tribunal') whereby compensation has been assessed on account of death of Naresh Kumar and Manoj Kumar in a motor vehicular accident that took place on 05.05.2014.

FAO No. 4684 of 2016 has been filed for enhancement of compensation in respect of death of Naresh Kumar whereas other appeal has been filed for enhancement of compensation in respect of death of Manoj Kumar.

FAO No. 4684 of 2016

The Tribunal has awarded Rs.7,73,000.00, detailed hereunder:-

-Monthly income of the deceased	Rs.5,400/-
-Deduction for personal expenses	1/3rd
-Multiplier	15
-Loss of dependency	Rs.6,48,000/-
-Loss of consortium to widow	Rs.1,00,000/-
-Funeral expenses	Rs.25,000/-

The plea of claimants is that Naresh Kumar was doing agricultural, animal husbandry and dairy farming thereby earning Rs.30,000/- per month. Counsel for the appellant has failed to point out any material on record to establish plea of the claimants. However, taking a clue from the notification issued by the State of Haryana fixing minimum wage at the relevant time, income of deceased is assessed at Rs.5,600.00. There is no clear evidence available with regard to age of the deceased.

The Tribunal, in para 21 of the judgment, has noticed that the deceased was about 40 years at the time of death. In absence of any evidence that he was less than 40 years of age, admissible increase in income for future prospects would be 25%. Multiplier and deduction for personal expenses allowed by the Tribunal are correct and affirmed. Accordingly, loss of dependency is calculated at Rs.8,40,000/- (Rs.10,08,000/- *i.e.* 5,600x12x15 + Rs.2,52,000/- (25% addition) – Rs.4,20,000/- (1/3rd))

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.9,10,000/- and additional amount is Rs.1,37,000/- (9,10,000/- - 7,73,000/-) payable with interest @ 7.5% per annum from the date of petition till realization except for period of delay of 108 days in filing the appeal to widow of the deceased, to be invested in fixed deposit for a period of three years.

FAO No. 6332 of 2016

The Tribunal has awarded Rs.6,08,200/-, detailed hereunder:-

-Monthly income of the deceased	Rs.5,400/-
-Deduction for personal expenses	50%
-Multiplier	18
-Loss of dependency	Rs.5,83,200/-
-Funeral expenses	Rs.25,000/-

In view of findings recorded in FAO No. 4684 of 2016, income of the deceased is assessed at Rs.5,600.00 per month. The claimants shall be entitle to addition in income for future prospects at the rate of 40%. Deduction for personal expenses and multiplier allowed by the Tribunal are correct and affirmed. Accordingly, loss of dependency is calculated at Rs.8,46,720/- (Rs.12,09,600/- *i.e.* 5,600 x 12 x 18 + Rs.4,83,840/- (40% addition) – Rs.8,46,720/- (50%))

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.30,000.00 (Rs.15,000.00 each qua loss to estate and funeral expenses), in the light of judgment of Hon'ble the Supreme Court in ***Pranay Sethi*** and ***Sebastiani Lakra's*** case (supra).

Total compensation is Rs.8,76,720/- and additional amount is Rs.2,68,520/- (8,76,720/- - 6,08,200/-) payable with interest @ 7.5% per annum from the date of petition till realization except for period of delay of 98 days in filing the appeal, to mother of the deceased, to be invested in fixed deposit for a period of three years.

For the foregoing reasons, the appeals are partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

12.03.2019
Mohan Bimbra

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