

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5733 of 2015(O&M)

Date of Decision: 07.11.2019

Gian Chand and others

.....Appellants

Vs.

Sham Singh and Others

.....Respondents

CORAM: HON'BLE MR.JUSTICE DR. RAVI RANJAN

Present:- Mr.Ram Pal Verma, Advocate, for the appellants.

Ms.Sheenu Sura, Advocate, for
respondent No.3-Insurance Company.

Mr.Naveen Sharma, Advocate, and
Mr.Vijay Lath, Advocate, for
respondent No.4.

DR. RAVI RANJAN, J. (Oral Judgment)

CM No.17986-CII of 2015

This application has been filed under Section 5 of the Limitation Act for condonation of delay in filing the appeal.

Heard.

Having regards to the averments made in the application, the same is allowed and delay of 154 days in filing the appeal is hereby condoned subject to all just exceptions.

FAO No.5733 of 2015

I have heard learned counsel for the appellants and respondent-Insurance Company as well as wife of deceased-respondent No.4.

This appeal has been preferred by the claimants/appellants for enhancement of the awarded amount which has been awarded by the decision dated 27.11.2014 passed in MACT CASE No.51 of 2013/2012 by the Motor Accident Claims Tribunal, Sonipat. All the claimants have not filed the appeal rather, the parents have filed this appeal but widow of the

deceased, v.i.z. Parveen has been impleaded as respondent No.4 who is represented by learned counsel, v.i.z., Mr.Naveen Sharma, Advocate.

The sole ground which has been raised by the appellant for enhancement of the awarded amount is that as per decision of the Constitution Bench of the Hon'ble Apex Court rendered in **National Insurance Co Ltd., Vs. Pranay Sethi and others, 2013 ACJ 1423**, 40% of the income ought to have been added in the income of the deceased for the purpose of calculation of the compensation award under the head of 'future prospects'.

Learned counsel for the Insurance Company is not in a position to controvert the same as law has already been led down by a Constitution Bench of the Hon'ble Apex Court.

Accordingly, the deceased being a driver and aged about 29 years at the time of accident, has to be considered under Clause (iv) of the Paragraph 61 of the decision of the Apex Court rendered in **Pranay Sethi (Supra)** and as such 40% of the income would be required to be added in the income of the deceased for the aforesaid purpose. Accordingly, the awarded amount is modified and recalculated as under:

Sr.No.	Heads	Compensation Awarded
1	Income	6,000/-per month.
2.	Future prospect 40%	Rs.6,000/- + Rs.2,400/-= Rs.8,400/-
3.	Deduction on personal expenses 1/3 rd	Rs.8,400/- --- Rs.2,800/-= Rs.5600/-
4.	Total loss of annual dependency applying multiplier 17.	Rs.5600/- X 12 X 17= Rs.11,42,400/-
5.	Funeral expenses	Rs.25,000/-
6.	Loss of Consortium	Rs.1,00,000/-
	Total	Rs.12,67,400/-
	Enhanced amount of compensation	Rs.12,67,400/- ---- Rs.9,41,000/-= Rs.3,26,400/-

In the result, this appeal stands allowed to the extent as indicated above.

It is made clear that none of the parties have raised any ground other than those which have been already discussed and considered as

above. All other observations, findings as well as decisions are kept intact.

(DR. RAVI RANJAN)
JUDGE

07.11.2019

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No