IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 5156 of 2016 (O&M)
Date of decision: 05.07.2019

Kailash Devi and another ....*Appellants*

Versus

Sukhvender Singh and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Kulvir Narwal, Advocate
for the appellants

Mr. Suman Jain, Advocate
for the respondent

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Rekha Mittal, J. (Oral)

CM 17617-CII of 2016

Prayer in this application is for condonation of delay of 401 days in filing the appeal.

Heard.

In view of the averments made in the application supported by affidavit of Smt. Kailash Devi, one of the applicants, the application is allowed and delay of 401 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 delay.

The application stands disposed of.

Main case

The claimants are in appeal seeking enhancement of compensation on account of death of Tejbir Singh in a motor vehicular accident that took place on 18.01.2013.

The Tribunal awarded Rs.9,94,000/-, detailed hereunder:-

-Month income of the deceased	Rs.12,000/-
-Deduction for personal expenses	1/3rd
-Multiplier	9
-Loss of dependency	Rs.8,64,000/-
-Funeral expenses	Rs.25,000/-
-Loss of consortium	Rs.1,00,000/-
-Loss of estate	Rs.5,000/-

Counsel for the appellants would argue that prior to occurrence, the deceased was working as Security Officer with S.L.V. Private Limited at salary of Rs.16,500/- per month but the Tribunal has assessed his income at Rs.12,000/- per month. The claimants may be extended benefit of addition in income for future prospects.

Indisputably, the deceased retired from Border Security Forces and was a pensioner. He was about 58 years old at the time of unfortunate occurrence. Shri A K Sharma, Chief Manager (PW3) of the aforesaid concern was examined and proved that the deceased was drawing Rs.16,500/- per month as salary but he left the job prior to accident. There is no evidence led by the claimants to prove as to what the deceased was doing after leaving job of S.L.V. Private Limited. Taking a clue from minimum wage of skilled worker coupled with that deceased had retired from Border Security Force, income of the deceased assessed by the Tribunal is affirmed. The claimants shall be entitle to addition in income for future prospects @ 10%. Deduction for personal expenses and multiplier allowed by the Tribunal are correct and affirmed. As such, loss of dependency comes to Rs.9,50,400/- (Rs.12,96,000/- *i.e.* 12,000 x 12 x 9 + Rs.1,29,600/- (10% addition) – Rs.4,75,200/- (1/3rd 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.***

In view of the above, total compensation comes to Rs.10,20,400.00 and additional amount is Rs.26,400/- payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 401 days, to widow of the deceased.

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

(Rekha Mittal)
Judge

05.07.2019
Mohan Bimbra

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