

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

-.-

FAO 6188 of 2015 (O&M)

Date of decision: 18.12.2019

Smt. Anaro and others

.....Appellants

Versus

Happy and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. H S Gharoo, Advocate
for the appellants

Ms Sheenu Sura, Advocate
for the insurance company

-.-

Rekha Mittal, J. (Oral)

CM 19599 CII of 2012

Prayer in this application is for condonation of delay of 102 days in filing the appeal.

Heard.

In view of averments made in the application supported by affidavit of Smt. Anaro Devi, one of the applicants, the application is allowed and delay of 102 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 Manek Chand, in a motor vehicular accident that took place on 07.09.2011.

The Tribunal awarded Rs.10,88,380/-, detailed hereunder:-

-Monthly income of the deceased	Rs.5,001/-
-Deduction for personal expenses	1/4 th
-Addition in income for future prospects	30%
-Multiplier	14
-Loss of dependency	Rs.8,35,380/-
-Loss of consortium	Rs.1,00,000/-
-Loss of care and guidance for minor	Rs.1,00,000/-
-Funeral expenses	Rs.25,000/-
-Pain and sufferings	Rs.25,000/-
-Transportation expenses	Rs.3,000/-

The plea of claimants is that deceased was driver on Canter bearing No. HR 55-A-9531 and paid Rs.10,000/- per month as salary including perks and allowances by his employer. They examined Shashi Dar (PW3), owner of Canter to prove employment and income of deceased. No doubt, Shashi Dar did not produce any documentary evidence with regard to salary paid to deceased or financial status of Shashi Dar but it remains undisputed position of the case that the deceased was driver of Canter when he sustained injuries in unfortunate accident and died. Taking a clue from notification issued by the State of Haryana fixing minimum wage coupled with the material on record, income of deceased is assessed at Rs.8,000/- per month. The claimants shall be entitle to addition in income for future prospects @ 25%. Deduction for personal expenses and multiplier applied are correct and affirmed. In this manner, loss of dependency comes to Rs.12,60,000/- (Rs.13,44,000/- i.e. 8,000 x 12 x 14 + Rs.3,36,000/- (25% addition) - Rs.4,20,000/- (1/4th deduction))

Under conventional heads, compensation allowed 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 is Rs.13,30,000/- and additional amount Rs.2,41,620/- (13,30,000 - 10,88,380), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 102 days in filing the appeal, to widow of the deceased, to be invested in fixed deposit for a period of two years.

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

(Rekha Mittal)
Judge

18.12.2019
Mohan Bimbura

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