

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

FAO No.6396 of 2015 (O&M)

Date of decision: 19.08.2019

Nisha Rani and others

... Appellants

Versus

Bhajan Singh and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Arjun Atri, Advocate
for the appellants.

Mr. DR Bansal, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

CM No.20080-CII of 2015

Prayer in this application is for condonation of delay of 529 days in filing the appeal.

In view of averments made in the application supported by an affidavit of appellant No.1-Nisha Rani coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 529 days in filing the appeal is condoned subject to the condition that the claimants shall forgo interest for the period of delay, in case compensation is enhanced.

Main Case

The claimants are in appeal seeking enhancement of compensation on account of death of Kishan Singh @ Kamal in a motor

vehicular accident that took place on 06.11.2011.

The Tribunal awarded Rs.7,37,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.4500/-
Multiplier	17
Deduction for personal expenses	1/3 rd
Loss of dependency	Rs.6,12,000/-
Expenses on funeral	Rs.25,000/-
Loss of consortium	Rs.1,00,000/-

The plea of claimants is that deceased was doing agriculture thereby earning Rs.25,000/- per month. They placed on record copy of jamabandi Ex.P4. Counsel for the appellants has fairly conceded that as per jamabandi, land was co-owned by father of the deceased. Taking a clue from notification issued by the State of Punjab fixing minimum wage at the relevant time, there is no justification for increase in income of the deceased. Claimants shall be entitle to addition in income for future prospects @ 40%. Multiplier applied by the Tribunal is correct and affirmed. However, deduction for personal expenses would be 1/4th. In this manner, loss of dependency is calculated at Rs.9,63,900/- [(4500 x 12 x 17) + (40% future prospects) – (1/4th deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.70,000/-, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

Total compensation is Rs.10,33,900/- and the additional amount is Rs.2,96,900/- (10,33,900 - 7,37,000), payable with interest @

7.5% per annum from the date of petition till realization, except for the period of delay of 529 days in filing the appeal, to minor children of the deceased in equal ratio, to be invested in fixed deposit till they attain majority or for a period of three years, whichever is later

The appeal is partly allowed in the aforesaid terms.

19.08.2019
ashok

(REKHA MITTAL)
JUDGE

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