IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

231 FAO No.5530 of 2016 (O&M)

Date of decision: 20.05.2019

PREETI KHATAK AND ORS ... Appellants

Versus

BALRAJ AND ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. MS Khaira, Advocate for the appellants.
Mr. Rajneesh Malhotra, Advocate for the insurance company.
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REKHA MITTAL, J. (Oral)

CM-18999-CII-2016

Prayer in this application is for condonation of delay of 112 days in filing the appeal.

In view of averments made in the application supported by an affidavit of appellant No.1-Preeti Khatak coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 112 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 Amit Khatak in a motor vehicular accident that took place on 13.03.2014.

The Tribunal awarded Rs.12,70,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.7500/-
2. Multiplier	17
3. Deduction for personal expenses	1/3rd
4. Loss of dependency	Rs.10,20,000/-
5. Loss of consortium and loss of estate	Rs.1,00,000/-
6. Cost of litigation	Rs.25,000/-
7. Loss of love and affection	Rs.1,00,000/-
8. Expenses on funeral and transportation	Rs.25,000/-

The sole submission made by counsel for the appellants is that the Tribunal has not allowed benefit of addition in income for future prospects @ 40%, in the light of judgment of Hon'ble the Supreme Court

National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270.

The plea of claimants is that deceased was doing business of cosmetic articles, spare parts of mobiles and computer and used to sell the same in or around Hisar city thereby earning Rs.25,000/- per month. Except the bald statement made by widow of the deceased, there is no evidence either oral or documentary that the deceased was involved in the aforesaid business much less earning Rs.25,000/- per month or any other amount. When the matter is examined in the light of notification issued by the State of Haryana fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.5550/- per month. Multiplier and deduction for personal expenses applied by the Tribunal are correct. Even if the claimants are extended benefit of addition in income for future prospects but compensation allowed under conventional heads is restricted to Rs.70,000/- in the light of judgment in **Pranay Sethi and others's case (supra),** the net result would be reduction in compensation vis-a-vis the one allowed by the Tribunal. In the given circumstances, the appellants cannot claim additional compensation.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed.

20.05.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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