In the High Court of Punjab and Haryana at Chandigarh

FAO-6107 of 2016(O&M)
Date of Decision: 31.5.2019

Smt. Ritu and another

---Appellants

versus

Balbir Singh Yadav and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Abhimanyu Singh, Advocate
for the appellants

Mr. Ankur Gupta, Advocate,
for the insurance company

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Rekha Mittal, J.
CM No. 20663-CII of 2016

Prayer in this application is for condoning delay of 59 days in filing the appeal.

In view of averments made in the application and arguments advanced by counsel for the applicants, application is allowed and delay of 59 days in filing the appeal stands condoned.

Disposed of accordingly.

Main case

The claimants are in appeal seeking enhancement of compensation on account of death of Rajmal @ Raj Kumar Malik in a motor vehicular accident that took place on 15.1.2014.

The Motor Accidents Claims Tribunal, Jhajjar (in short "the Tribunal") awarded Rs. 16,54 576/-, detailed hereunder:-

Monthly income of the deceased	Rs. 7000/-
Deduction for personal expenses	1/3rd
Multiplier	15
Loss of dependency	Rs. 8,40,060/-
Funeral expenses	Rs. 25,000/-
Loss of love and affection	Rs. 25,000/-
Loss of consortium	Rs. 50,000/-
Medical expenses	Rs. 6,99,516/-
Attendant charges	Rs. 3000/-
Conveyance charges	Rs. 10,000/-
Special diet	Rs. 2000/-

The plea of the claimants is that deceased was owner and proprietor of Malik spare parts Bahadurgarh and was also owner of Mahinder Pick Up bearing No. HR-55C-6554 used as taxi. The claimants failed to adduce sufficient much less cogent evidence on record to establish their plea with regard to business or ownership of Mahinder Pick Up by the deceased.

Income of the deceased assessed by the Tribunal is more than minimum wage of an unskilled worker at the relevant time and as such there is no scope for allowing additional compensation qua income of the deceased. The deceased was 39 years old at the time of the occurrence. Claimants shall be entitle to increase in income for future prospects @ 40%. Deduction for personal expenses and multiplier adopted by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs. 11,76,000/- [7000 x 12 x15=12,60,000 + 5,04,000(40%)= 17,64,000 -5,88,000(1/3rd)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs. 70,000/- in the light of judgments of Hon'ble the Supreme Court **National**

Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270 and **Sebastiani Lakra and others vs. National Insurance Company Limited and another AIR 2018 SC 5034,** detailed hereunder:-

Loss of consortium	Rs. 40,000/-
Expenses on funeral	Rs. 15,000/-
Loss of estate	Rs. 15,000/-

Compensation allowed by the Tribunal with regard to medical expenses, attendant charges, conveyance charged, special diet etc. is affirmed.

Total compensation is Rs. 19,60,516/- {12,46,000+ 15,000 + 6,99,516} and the additional amount is Rs. 3,05,940/- (19,60,516-16,54,576), payable with interest @ 7.5% per annum from the date of petition till realization to Harsh minor son of the deceased, to be invested in fixed deposit for a period of three years or till his attaining the age of majority, whichever is later. Interest accruing on the FDR shall be paid to mother of the minor for meeting expenses on his education and living.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

31.5.2019
PARAMJIT

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