

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

FAO No. 738 of 2015(O&M)

Date of decision: 9.5.2019

Sheela and others

.....Appellants

VERSUS

Rajbir and others

.....Respondents

CORAM: **HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. K.S. Khera, Advocate for the appellants.

Mr. Munfaid Khan, Advocate for
Mr. Sushil Bhardwaj, Advocate for respondent No.1.

Mr. Paramjit Singh, DAG, Haryana for respondent No.4.

Mr. Paul S. Saini, Advocate and
Mr. Vipul Sharma, Advocate for respondent No.5.

REKHA MITTAL, J. (Oral)

CM No.2024-CII of 2015

Prayer in this application is for condoning delay of 143 days
in re-filing the appeal.

Heard.

In view of averments made in the application, the same is
allowed. Delay of 143 days in re-filing the appeal stands condoned, subject
to the condition that in case the appellants succeed in appeal, they will
forgo interest for the period of delay.

Disposed of accordingly.

CM No.2023-CII of 2015

Prayer in this application is for condoning delay of 80 days

in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Sheela - appellant, the application is allowed. Delay of 80 days in filing the appeal stands condoned.

Disposed of accordingly.

FAO No.738 of 2015

Mr. Munfaid Khan, Advocate for Mr. S.K. Bhardwaj, Advocate and Mr. Vipul Sharma, Advocate, have caused appearance on behalf of respondent No.1 and 5 - insurance company, respectively.

Respondents No.2 and 3 have been served but remain unrepresented. As a consequence, they are proceeded against ex parte.

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Bhiwani (in short 'the Tribunal') on account of death of Suraj Bhan in a motor vehicular accident that took place on 15.11.2011.

The Tribunal awarded Rs.6,32,000/- detailed hereunder:-

Monthly income of the deceased	Rs.5100/-
Deduction for personal expenses	1/3 rd
Multiplier	15
Loss of dependency	Rs.6,12,000/-
Loss of consortium, loss of estate and expenses on funeral	Rs.20000/-

The plea of claimants is that deceased Suraj Bhan was a Mason and Milk Vendor thereby earning Rs.15,000/- per month. Besides statement of Sheela, widow of the deceased, the claimants examined Ravinder PW-3 to substantiate their plea that deceased was a Mason by

profession. However, testimony of the witnesses does not find corroboration from any documentary evidence. Taking a clue from notification issued by the State of Haryana fixing minimum wage coupled with evidence available on record, I do not find any reason to differ with findings of the Tribunal with regard to income of the deceased. However, the claimants shall be entitle to addition in income for future prospects at the rate of 40%. Deduction for personal expenses and multiplier allowed by the Tribunal are correct and affirmed. In this manner, loss of dependency comes to Rs.8,56,800/- [Rs.9,18,000/- (Rs.5100 x 12 x 15) + Rs.3,67,200/- (40% addition towards future prospects) – Rs.4,28,400/- (1/3rd deduction towards personal expenses)].

Under conventional heads, appellants shall be entitle to Rs.70,000/- detailed hereunder:-

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

In view of the above, total compensation comes to Rs.9,26,800/- and the additional amount is Rs.2,94,800/- (Rs.9,26,800/- - Rs.6,32,000/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization except for the period of delay of 143 days in re-filing the appeal, to widow of the deceased, to be invested in fixed deposit for a period of two years.

The appeal is partly allowed in the aforesaid terms.

MAY 9, 2019		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no