IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

229 FAO-6386-2016 (O&M)

Date of decision: 04.09.2019

SHANTI & ANR ... Appellants

Versus

ROSHAN LAL & ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ajit Sihag, Advocate for the appellants.
Ms. Gurdeep Kaur, Advocate for
Mr. Ramandeep Singh, Advocate for respondents No.1 and 2.
Ms. Vandana Malhotra, Advocate for the insurance company.

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REKHA MITTAL, J. (Oral)

CM No.21309-CII of 2016

Prayer in this application is for condonation of delay of 260 days in refiling the appeal.

In view of averments made in the application supported by an affidavit of counsel for the appellants coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 260 days in refiling 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 Pawan in a motor vehicular accident that took place on 21.12.2013.

The Tribunal awarded Rs.7,44,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.9000/-
Multiplier	11
Deduction for personal expenses	50%
Loss of dependency	Rs.5,94,000/-
Expenses on funeral and transportation	Rs.25,000/-
Litigation cost	Rs.25,000/-
Loss of love and affection	Rs.1,00,000/-

The plea of claimants is that deceased was working as private driver with Gillu Ram at salary of Rs.15,000/- per month. Gillu Ram PW4 was examined and stated that deceased was employed as driver on the loading auto. The Tribunal has noticed that though no proof regarding employment of deceased with Gillu Ram has been placed on record but at the time of accident, deceased was driving the loaded auto. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time coupled with that deceased was driver on auto, income of the deceased is assessed at Rs.7500/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. As the deceased was 21 years old, admissible multiplier is 18. In this context, reference can be made to judgments of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77**, **Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315** and **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**. In this manner, loss of dependency is calculated at Rs.11,34,000/- [(7500 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation awarded to the extent of Rs.1,25,000/- is modified and claimants shall be entitle to Rs.30,000/-, detailed hereunder:-

1. Expenses on last rites	Rs.15,000/-
2. Loss of estate	Rs.15,000/-

Cost of litigation Rs.25,000/- allowed by the Tribunal is affirmed.

Total compensation is Rs.11,89,000/- and additional amount is Rs.4,45,000/- (11,89,000 - 7,44,000), payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 260 days in refiling the appeal, to mother of the deceased, to be invested in fixed deposit for a period of two years.

The appeal is partly allowed in the aforesaid terms.

04.09.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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