

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

FAO No. 703 of 2016(O&M)

Date of decision: 28.8.2019

Manjit Kaur and others

.....Appellants

VERSUS

Raj Bhupinder and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: None for the appellants.

Mr. R.N. Singal, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

CM No.2094-CII of 2016

Prayer in this application is for condoning delay of 222 days
in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Manjit Kaur– appellant No.1, the application is allowed. Delay of 222 days in 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.

FAO No.703 of 2016

Mr. R.N. Singal, Advocate, has filed memo of appearance on behalf of the insurance company.

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Sangrur

(in short 'the Tribunal') on account of death of Nachhatar Singh in a motor vehicular accident that took place on 16.05.2013.

The Tribunal awarded Rs.8,29,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.7000/-
Deduction for personal expenses	1/3 rd
Multiplier	14
Loss of dependency	Rs.7,84,000/-
Loss of consortium to the widow	Rs.10,000/-
Funeral expenses	Rs.10,000/-
Loss of love and affection	Rs.25,000/-

The plea of claimants is that deceased was an agriculturist and doing dairy farming and has a shop of electrician thereby earning Rs.15,000/- per month from shop, Rs.8000/- per month from dairy farming and Rs.2,00,000/- per annum as agriculture income.

Parkash Singh PW-1 stated that he had gone to shop of the deceased for getting repaired his fan and thereafter they were going to village Kanoi for repair work when accident took place. Nirbhai Singh PW-5 had deposed that he was employed with Nachhattar Singh and getting salary of Rs.3000/- per month. Claimants further examined Jagtar Singh CW-4 and he produced J Forms Ex.CW4/B to CW4/G as an evidence that Nachhattar Singh was selling crops worth Rs.2,00,000/- every year. They also examined Gurcharan Singh CW-3 who stated that Nachhattar Singh was selling milk to him and he was paying Rs.8000/- per month but he admitted that name of Nachhattar Singh does not find mention in the record produced by him. The claimants did not produce any documentary evidence in respect of the land holding in the name of

deceased. Taking a cumulative view of the evidence on record coupled with that land owned by the deceased would be available to his family, income of the deceased is assessed at Rs.10,000/- per month. Claimants shall be entitle to addition in income for future prospects at the rate of 25%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.14,00,000/- [Rs.16,80,000/- (Rs.10000 x 12 x 14) + Rs.4,20,000/- (25% towards future prospects) - Rs.7,00,000/- (1/3rd deduction towards personal expenses)].

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

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

In view of the above, total compensation is Rs.14,70,000/- and the additional amount is Rs.6,41,000/- (Rs.14,70,000/- - Rs.8,29,000/-) 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 222 days in filing the appeal, to minor Gurpreet Singh, to be invested in fixed deposit till he attains majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

AUGUST 28, 2019
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no