

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

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FAO No.1179 of 2017 (O&M)

Date of decision: 17.12.2019

BALJINDER KAUR & ANR

... Appellants

Versus

GURJANT SINGH & ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ashok Giri, Advocate for the appellants.
Mr. Harsh Aggarwal, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

CM No.3847-CII of 2017

Prayer in this application is for condonation of delay of 185 days in filing the appeal.

In view of averments made in the application supported by an affidavit of appellant No.2-Harjeet Singh coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 185 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 Jagmohan Singh in a motor vehicular accident that took place on 16.10.2014.

The Tribunal awarded Rs.5,90,000/-, detailed hereunder:-

Annual income of the deceased	Rs.30,000/-
Multiplier	18
Loss of dependency	Rs.5,40,000/-
Conventional heads	Rs.50,000/-

Counsel for the appellants would argue that income of deceased assessed by the Tribunal is grossly inadequate and needs enhancement. Claimants may be allowed benefit of addition in income for future prospects.

Counsel representing the insurance company, on the contrary, would submit that adequate compensation has been allowed.

The deceased was born on 09.06.1997 and died on 16.10.2014 and as such, he was more than 17 years at the time of unfortunate occurrence. Keeping in view age of the deceased coupled with minimum wage available at the relevant time, income of the deceased is assessed at Rs.6660/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. In this context, reference can be made to judgment of this Court **National Insurance Co. Ltd. Vs. Pushpa Singh Chauhan and others, FAO No.1502 of 2015, decided on 20.03.2015** affirmed by Hon'ble the Supreme Court in Special Leave Petition (C) S. No.19533 of 2015. Multiplier applied by the Tribunal is correct and affirmed. There will be deduction of 50% with regard to personal and living expenses of the deceased. In this manner, loss of dependency is calculated at Rs.10,06,992/- [(6660 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation awarded is modified to the effect that 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/- |

Total compensation is Rs.10,36,992/- and additional amount Rs.4,46,992/- (10,36,992 - 5,90,000), payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 185 days, 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.

17.12.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No