

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

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FAO No.1816 of 2017 (O&M)

Date of decision: 13.05.2019

KALAWATI & ORS

... Appellants

Versus

SHIV KUMAR & ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. VK Sheoran, Advocate for the appellants.
None for the insurance company.

REKHA MITTAL, J. (Oral)

CM No.6070-CII of 2017

Prayer in this application is for condonation of delay of 1657 days in filing the appeal.

In view of averments made in the application supported by an affidavit of appellant No.1 coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation; there is nothing on record suggestive of the fact that delay in filing the appeal is either intentional much less actuated by malice, no third party interest has been created during the intervening period to say that in case the appeal is allowed, the same would be prejudicial to interest of that party, application is allowed and delay of 1657 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 Ram Avtar in a motor vehicular accident that took place on the intervening night of 27/28.10.2009.

The Tribunal awarded Rs.4,18,200/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.3200/-
2. Multiplier	14
3. Deduction for personal expenses	1/4 th
4. Loss of dependency	Rs.4,03,200/-
5. Expenses on funeral	Rs.5,000/-
6. Loss of estate	Rs.5000/-
7. Loss of consortium	Rs.5,000/-

Counsel for the appellants would argue that the Tribunal has not allowed benefit of addition in income for future prospects and adequate compensation under conventional heads.

There is no representation on behalf of the insurance company, despite service.

The appellants shall be entitle to addition in income for future prospects @ 25%. In this manner, loss of dependency is calculated at Rs.5,04,000/- [(3200 x 12 x 14) + (25% future prospects) – (1/4th deduction for personal expenses)].

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

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

Total compensation is Rs.5,74,000/- and the additional amount is Rs.1,55,800/- (5,74,000 - 4,18,200), payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 1657 days in filing the appeal, to be shared by the claimants in equal ratio. The amount falling to share of minors shall be invested in fixed deposit payable on their attaining majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

13.05.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No