

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

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FAO No.1916 of 2017 (O&M)

Date of decision: 06.05.2019

SMITTARI DEVI & ANR

.. Appellants

Versus

KULWINDER SINGH & ORS

.. Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sumit Kalyan, Advocate for
Mr. Bhanu P. Singh, Advocate for the appellants.
Mr. VK Garg, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

CM No.6288-CII of 2017

Prayer in this application is for condonation of delay of 212 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, application is allowed and delay of 212 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 Harbhajan Singh in a motor vehicular accident that took place on 10.11.2011.

The Tribunal awarded Rs.3,87,489/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.2000/-
2. Addition in income for future prospects	30%
3. Multiplier	13
4. Deduction for personal expenses	1/4 th
5. Loss of dependency	Rs.3,04,200/-
6. Funeral expenses and medical bill	Rs.33,289/-
7. Loss of consortium	Rs.50,000/-

The plea of claimants is that the deceased was working as Manager of M/s Rajana Enterprise GT Road Dasuya, District Hoshiarpur at salary of Rs.6800/- per month. They did not examine any witness to

substantiate their plea in this regard. Taking a clue from notification issued by the State of Punjab fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.4200/- per month. Claimants shall be entitle to addition in income for future prospects @ 10%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.5,40,540/- $[(4200 \times 12 \times 13) + (10\% \text{ future prospects}) - (1/4^{\text{th}} \text{ deduction for personal expenses})]$.

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/-

The amount of Rs.28,289/- for medical expenses allowed by the Tribunal is affirmed.

Total compensation is Rs.6,38,829/- and the additional amount is Rs.2,51,340/- (6,38,829 - 3,87,489), payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 212 days in filing the appeal, to widow of the deceased.

The appeal is partly allowed in the aforesaid terms.

06.05.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No