IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

236 FAO No.2444 of 2017 (O&M)

Date of decision: 29.01.2019

NEHA AND ANR. ... Appellants

Versus

VIJAY KUMAR AND ORS. ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sukhdeep Parmar, Advocate for the appellants.
Mr. Rajneesh Malhotra, Advocate for the insurance company.
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<u>REKHA MITTAL, J. (Oral)</u>

CM-8138-CII-2017

Prayer in this application is for condonation of delay of 2317 days in filing the appeal.

In view of averments made in the application supported by an affidavit of Smt. Neha, widow of the deceased couple with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 2317 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 Ashok Kumar in a motor vehicular accident that took place on 28.07.2009.

The Tribunal has awarded compensation of Rs.10,35,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.6750/-
2. Multiplier	17
3. Deduction for personal expenses	1/4th
4. Loss of dependency	Rs.10,20,000/-
5. Expenses on funeral	Rs.10,000/-
6. Loss of consortium	Rs.5000/-

The Tribunal has assessed income of the deceased on the basis of salary register Ex.P11 produced by Chander Kanta PW3. Accordingly, income of the deceased assessed by the Tribunal is affirmed. Claimants shall be entitle to addition in income for future prospects @ 40%. Multiplier applied by the Tribunal is correct and affirmed. The Tribunal has applied cut of 1/4th for personal and living expenses of the deceased. The application for compensation has been filed by the widow, minor son and parents of deceased Ashok Kumar. Father of the deceased is stated to be 54 years old. There is nothing on record suggestive of the fact that father of the deceased had any disability to render him unable to earn and support his family. In the given circumstances, admissible deduction for personal expenses would be 1/3rd. In view of the above, loss of dependency is calculated at Rs.12,85,200/- [(6750 x 12 x 17) + (40% future prospects) – (1/3rd 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/- in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270** and **Sebastiani Lakra and others vs. National Insurance Company Limited and another AIR 2018 SC 5034**, 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.13,55,200/- and the additional amount is Rs.3,20,200/- (13,55,200 - 10,35,000), payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 2317 days in filing the appeal, to be paid to Master Krisha (minor), to be invested in fixed deposit till he attains the age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

29.01.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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