IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM Nos. 6017-CII and 6023-CII of 2019.
in/and FAO No. 2491 of 2017 (O&M)
Date of Decision: May 14, 2019

Ritu and others ...... Applicant-Appellants(s)

Versus

Foren Singh and others ..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. S.K. Tripathi, Advocate
for the applicant-appellants.

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LISA GILL, J.

CM Nos. 6017-CII and 6023-CII of 2019

Prayer in these applications is for restoration of the appeal which was dismissed in default by this Court on 24.01.2019 and for condonation of delay in filing of this application.

For the reasons mentioned in the applications, duly supported by affidavits of the applicant, as well as arguments addressed, delay of 17 days in filing of the application is condoned. The main appeal is restored to its original number.

Both the applications are disposed of.

At request of learned counsel for the appellants, the main appeal is taken up for hearing.

FAO No. 2491 of 2017

This appeal has been filed seeking enhancement of compensation awarded to the claimants vide award dated 29.11.2016, passed by learned Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal).

Learned Tribunal concluded that deceased, Kuldeep Singh lost his life in the accident, which took place on 26.04.2015, on account of rash and negligent driving of the offending canter bearing registration No. HR-55-R-5622, by its driver Foren Singh-respondent no.1. Deceased was accepted to be 22 years old at the time of accident. While assessing income of the deceased to be Rs.11,736/- per month, learned Tribunal awarded a sum of Rs. 27,06,000/- as compensation, which is detailed as under:-

Sr. No.	**Heads**	**Calculations**
1.	Income	11,736/- per month
2.	Income after addition @ 50% on account of future prospects	11,736+5,868 = 17,604/- [It was rounded off to 17,600/-]
3.	Income after deducting 1/3rd as personal and living expenses of the deceased	17600 - 1/3rd = 11,734/-
4.	Compensation after applying multiplier of 18	11,734 x 12 x 18 = 25,34,544/-
5.	Compensation on account of medical treatment	41,788/-
6.	Transportation and funeral expenses	30,000/-
7.	Loss of love and affection	1,00,000/-
	Total	**27,06,332/- [rounded off to 27,06,000/-**

I have heard learned counsel for the appellants and have gone through the file with his able assistance.

A valiant effort has been made by learned counsel for the appellants to argue that income of the deceased has been wrongly assessed as Rs.11,736/- per month whereas he was earning much more. However, perusal of the file reveals that the deceased, aged 22 years, was claimed to be working as Delivery Associate with M/s. Ikya Human Capital Solutions

Limited, Manesar. PW-4 Atuleshwar Singh proved the conditional offer letter Ex. P-21 , the salary break-up sheet Ex. P-22 as well as salary slip of the deceased for the month of April 2015 Ex. P-23. It is apparent that the salary of the deceased was Rs.11,736/- per month, which has been accepted as such by the learned Tribunal. There is no other evidence on record to indicate any other income of the deceased. Thus, there is no ground to interfere in the assessment of income of the deceased by the learned Tribunal. Learned Tribunal has awarded increment towards future prospects at the rate of 50%. Learned Tribunal has afforded sum of Rs.1,00,000/- towards loss of love and affection and Rs.30,000/- towards transportation and funeral expenses.

Learned counsel for the appellants is unable to deny that there is no scope for any enhancement in the compensation, especially keeping in view the judgments of Hon'ble Court in **National Insurance Company Limited vs. Pranay Sethi and others,** ***2017(16) SCC 680***. In this view of the matter, he submits that he has instructions to withdraw this appeal.

Appeal is accordingly dismissed as withdrawn.

(Lisa Gill)
May 14, 2019 **Judge**

Sunil

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