

In the High Court of Punjab and Haryana at Chandigarh

FAO- 3144 of 2017(O&M)
Date of Decision: 15.5.2019

Rajinder Kaur and another

---Appellants

versus

Amrinder Kumar and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Vikram Bali, Advocate
for the appellants
Mr. Satish Jain, Advocate,
for insurance company/respondent No. 3

Rekha Mittal, J.

CM No. 10293-CII of 2017

Prayer in this application is for condoning delay of 1225 days in filing the appeal.

In view of averments made in the application supported by affidavit of the appellant coupled with that provisions of the Motor Vehicles Act for grant of compensation are benevolent social legislation to save the victim family from financial loss caused due to accident, the application is allowed, delay of 1225 days in filing the appeal stands condoned subject, however, to the condition that in case the compensation is enhanced, the applicants-appellants shall not be entitle to interest for the period of delay.

Disposed of accordingly.

FAO No. 3144 of 2017

The claimants are in appeal seeking enhancement of

compensation on account of death of Amrit Singh in a motor vehicular accident that took place on 14.4.2011.

The Motor Accidents Claims Tribunal, Rupnagar (in short “the Tribunal”) awarded Rs.4,55,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 5000/-
Deduction for personal and living expenses	50%
Multiplier	15
Loss of dependency	Rs. 4,50,000/-
Expenses on last rites	Rs. 5000/-

The plea of claimants is that the deceased had studied upto class 12. However, they did not produce any documentary evidence with regard to educational qualification of the deceased. Similarly, no evidence was produced by the claimants to prove avocation and income of the deceased. 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. 4000/- per month. Claimants shall be entitle to increase in income for future prospects @ 40%. Deduction for personal expenses applied by the Tribunal is correct and affirmed.

The Tribunal has applied multiplier of 15 on the basis of age of the deceased. Taking into consideration age of the deceased, admissible multiplier is 18. In this context, reference can be made to judgments of Hon'ble the Supreme Court *Smt.Sarla Verma and others vs. Delhi Transport Corporation and another* 2009 ACJ 1298, *Munna Lal Jain vs. Vipin Kumar Sharma* 2015(3) RCR (Civil) 447, *National Insurance Company Limited vs. Pranay Sethi and others* 2017 SCC 1270 and *M/s Royal Sundaram Alliance Insurance Company Limited vs. Mandala Yadagari Goud and others* CA No. 6600 of 2015 decided on 9.4.2019.

In view of the above, loss of dependency is calculated at Rs. 6,04,800/- [4000x12x18= 8,64,000+ 3,45,600(40%)= 12,09,600 – 6,04,800 (50%)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs. 30,000/- in the light of judgments of Hon'ble the Supreme Court **Pranay Sethi and others' case (supra)** and **Sebastiani Lakra and others vs. National Insurance Company Limited and another AIR 2018 SC 5034**, detailed hereunder:-

Expenses on funeral	Rs. 15,000/-
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Loss of estate	Rs. 15,000/-
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Total compensation is Rs. 6,34,800/- and the additional amount is Rs. 1,79,800/- (6,34,800-4,55,000), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 1225 days delay in filing the appeal, to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

15.5.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No