

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO 3505 of 2017 (O&M)
Date of decision: 18.01.2019

Secretary Transport Punjab Chandigarh and othersAppellants
versus
Sarabjit Kaur and othersRespondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Ms Ruksar Dhindsa, AAG, Punjab
for the appellants

Mr. Gopal Mittal, Advocate/Amicus Curiae and
Mr. Parminder S Kanwar, Advocate
for respondents No. 1 to 3

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Rekha Mittal, J. (Oral)

CM 11385 CII of 2017

Prayer in this application is for condoning delay of 96 days in
filing the appeal.

Heard.

In view of averments made in the application supported by an
affidavit and arguments advanced, the application is allowed and delay of
96 days in filing the appeal stands condoned.

Main case

The present appeal directs challenge against award dated
14.09.2016 passed by the Motor Accidents Claims Tribunal, Hoshiarpur
(hereinafter to be referred as 'the Tribunal') whereby compensation has been
assessed on account of death of Gurvinder Singh in a motor vehicular

accident that took place on 05.03.2015.

Counsel for the appellants would inform that the appeal has been preferred primarily on two counts. It is argued that the alleged eye witness to the occurrence Baby (AW4) has deposed that the Bus in question was being driven at normal speed, therefore, the Tribunal has wrongly answered issue No. 1 in favour of claimants and against respondents before the Tribunal. Another submission made by counsel is that the Tribunal has assessed income of the deceased at Rs.18,186.00 as against testimony of Pushvinder Kaur, Record Keeper, Punjab Roadways Depot SBS Nagar (AW3).

Baby (AW4), the alleged eye witness to the occurrence, appeared in the witness box and would depose that the offending Bus struck against kikkar tree, as a result of which, many passengers sustained injuries and some of them died. The driver of offending vehicle did not appear in the witness box to explain about the circumstances as to how occurrence in question took place. It is not plea of the appellants that accident is the result of an act of God or due to mechanical failure. In proceedings before the Tribunal, culpability of the driver is not to be proved beyond shadow of reasonable doubt. In the given circumstances, I do not find any reason to differ with findings of the Tribunal on issue No. 1 and the same are accordingly affirmed.

Contention raised by the appellants to challenge quantum of compensation with regard to salary of the deceased is patently misconceived and liable to be rejected. The Tribunal has assessed income of the deceased at Rs.12,124.00 per month but after extending benefit of

addition for future prospects at the rate of 50%, the same has been calculated at Rs.18,186.00 per month, thus, correctly calculated.

No other point has been raised.

Perusal of the award would reveal that the Tribunal has awarded interest at the rate of 7.5% per annum from the date of filing of claim application till realization only in case compensation is not paid within three months from the date of order i.e. 14.09.2016. The Tribunal has not assigned any reason to allow this concession in favour of the appellants or deny interest to the claimants. Accordingly, the award passed by the Tribunal is modified to the effect that claimants shall be entitle to interest at the rate 7.5% per annum on the amount of compensation assessed by the Tribunal from the date of filing of the petition till realization, irrespective of the fact whether the same is paid within three months or not.

(Rekha Mittal)
Judge

18.01.2019
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