

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

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FAO No.3853 of 2017 (O&M)

Date of decision: 03.09.2019

SHYAM LAL @ SHYAMA AND ANR.

... Appellants

Versus

NARENDER KUMAR AND ORS.

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : None for the appellants.

Mrs. Shamsher Kaur, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

CM No.12485-CII of 2017

Prayer in this application is for condonation of delay of 107 days in filing the appeal.

In view of averments made in the application supported by an affidavit of appellant No.1-Shyam Lal coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 107 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 Preeti in a motor vehicular accident that took place on 24.11.2014.

The Tribunal awarded Rs.8,20,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.5000/-
Addition in income for future prospects	50%
Multiplier	18
Deduction for personal expenses	50%
Loss of dependency	Rs.8,10,000/-
Expenses on transportation and last rites	Rs.10,000/-

The Tribunal, in para 17 of the award, has noticed that in the claim petition, there is no reference to income of the deceased. The plea of claimants is that Preeti was pursuing JBT course but no document was produced to prove this fact. However, copies of Secondary Examination

Certificate Ex.P5 and Senior Secondary Examination Certificate Ex.P6 were produced on file. Taking into consideration educational qualification of the deceased coupled with minimum wage available at the relevant time, income of the deceased is assessed at Rs.6500/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.9,82,800/- [(6500 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitle to Rs.30,000/-, detailed hereunder:-

1. Expenses on last rites	Rs.15,000/-
2. Loss of estate	Rs.15,000/-

Total compensation is Rs.10,12,800/- and additional amount is Rs.1,92,800/- (10,12,800 - 8,20,000), payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 107 days in filing the appeal, to mother of the deceased, to be invested in fixed deposit for a period of three years.

The appeal is partly allowed in the aforesaid terms.

03.09.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No