

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

FAO No. 3856 of 2017(O&M)

Date of decision: 8.5.2019

Dushyant Kumar and othersAppellants

VERSUS

Anil and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: None for the appellants.

REKHA MITTAL, J. (Oral)

CM No.12486-CII of 2017

Prayer in this application is for condoning delay of 294 days
in filing the appeal.

Heard.

In view of averments made in the application supported by an
affidavit of Dushyant Kumar - appellant, the application is allowed. Delay
of 294 days in filing the appeal stands condoned, subject to the condition
that in case the appellants succeed in appeal, they will forgo interest for the
period of delay.

Disposed of accordingly.

FAO No.3856 of 2017

Mr. Ankur Gupta, Advocate, has caused appearance on behalf
of respondent No.3- insurance company.

The claimants are in appeal seeking enhancement of
compensation awarded by the Motor Accidents Claims Tribunal, Gurgaon

(in short ‘the Tribunal’) on account of death of Rohit Chauhan in a motor vehicular accident that took place on 01.10.2015.

The Tribunal awarded Rs.11,40,000/- detailed hereunder:-

Monthly income of the deceased	Rs.10026/- (rounded off to Rs.10000/-)
Deduction for personal expenses	50%
Multiplier	18
Loss of dependency	Rs.10,80,000/-
Expenses on funeral	Rs.20000/-
Loss of estate	Rs.20000/-
Non-pecuniary damages	Rs.20000/-

The plea of claimants is that deceased aged about 21 years was doing job in Honda Motorcycles and Scooters (India) Pvt. Ltd., IMT, Manesar, Gurgaon at salary of Rs.1,41,012/- per annum. To substantiate their plea, they examined Yogesh Sharma, HR Executive, M/s Kamal Enterprises, Gurgaon and he deposed on the basis of record that Rohit Chauhan was deputed by their firm to Honda Motorcycles and Scooters, Sector 3, IMT, Manesar and proved salary slip Ex.P14 from February 2015 to September 2015, extract of register of wages Ex.P13, photocopy of appointment letter Mark ‘B’. Dinesh Kumar, Executive Employees Relations, Honda Motorcycles and Scooters (India) Pvt. Ltd. Gurgaon PW-10 had deposed that Rohit Chauhan was not their employee but he was working in their company on the roll of M/s Kamal Enterprises and getting salary from Kamal Enterprises. The Tribunal has noticed that deceased Rohit Chauhan was employed as labour on contract basis through M/s Kamal Enterprises in Honda Motorcycles and Scooters Ltd. and his monthly income as per wage slip Ex.P14 is Rs.10026/-. Keeping in view

that provisions providing for compensation are benevolent social legislation, monthly income of the deceased is rounded off to Rs.10050/- per month. The claimants shall be entitle to addition in income for future prospects at the rate of 40%. Deduction for personal expenses and multiplier allowed by the Tribunal are correct and affirmed. In this manner, loss of dependency comes to Rs. 15,19,560/- [Rs.21,70,800/- (Rs.10050 x 12 x 18) + Rs.8,68,320/- (40% addition towards future prospects) – Rs.15,19,560/- (50% deduction towards personal expenses)].

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

Funeral expenses	Rs.15,000/-
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Loss of estate	Rs.15,000/-
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In view of the above, total compensation comes to Rs.15,49,560/- and the additional amount is Rs.4,09,560/- (Rs.15,49,560/- - Rs.11,40,000/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization except for the period of delay of 294 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.

MAY 8, 2019

‘D. Gulati’

Whether speaking/reasoned :

Whether reportable :

(REKHA MITTAL)

JUDGE

yes/no

yes/no