

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

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FAO No.4351 of 2017 (O&M)

Date of decision: 06.02.2019

BASANT SINGH AND ORS.

... Appellants

Versus

HAZURA SINGH AND ORS.

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Abhishek Arora, Advocate for the appellants.
Mr. Harkeerat Singh, Advocate for respondent No.2.
Mr. Sanjeev Kodan, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)
CM-13373-CII-2017

Prayer in this application is for condonation of delay of 380 days in filing the appeal.

In view of averments made in the application supported by an affidavit of Basant Singh, one of the claimants coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 380 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 Sanjay Singh in a motor vehicular accident that took place on 28.03.2013.

The claim was preferred under Section 163-A of the Motor Vehicles Act, 1988 (in short 'the Act').

The Tribunal has awarded compensation of Rs.3,38,600/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.3300/-
2. Multiplier	17
3. Deduction for personal expenses	50%
4. Loss of dependency	Rs.3,36,600/-
5. Expenses on funeral	Rs.2000/-

Indisputably, the application for compensation was filed under Section 163-A of the Act wherein compensation is to be assessed on the

basis of structured formula laid down in Second Schedule appended thereto. As such, deduction to the extent of 50% allowed by the Tribunal cannot be allowed to sustain and the same would be 1/3rd. Income of the deceased and multiplier applied by the Tribunal are correct and affirmed. Accordingly, loss of dependency is calculated at Rs.4,48,800/- [(3300 x 12 x 17) – (1/3rd deduction for personal expenses)].

Compensation allowed under conventional heads is enhanced to Rs.2500/- towards loss of estate. In this manner, total compensation is Rs.4,53,300/- and the additional amount is Rs.1,14,700/- (4,53,300 – 3,38,600) payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay, to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

06.02.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No