

In the High Court of Punjab and Haryana at Chandigarh

FAO- 4574 of 2017(O&M)

Date of Decision: 3.7.2019

Smt. Manisha and others

---Appellants

versus

Manib Kumar and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Manoj Sharma, Advocate
for the appellant**

Rekha Mittal, J.

Mr. Sandeep Suri, Advocate, has caused appearance on behalf of respondent No. 3. Power of attorney and replies to the applications for condonation of delay in filing and refiling the appeal, filed in the court, are taken on record.

CM No. 13680 and 13681-CII of 2017

Prayer in these applications is for condoning delay of 174 days in refiling and 415 days in filing the appeal.

In view of averments made in the applications 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 applications are allowed, delay of 174 days in refiling and 415 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.

Main case

The claimants are in appeal seeking enhancement of compensation on account of death of Vijay in a motor vehicular accident that took place on 6.1.2014.

The Motor Accidents Claims Tribunal, Sonipat (in short “the Tribunal”) awarded Rs.10,43,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 6000/-
Deduction for personal expenses	1/4 th
Multiplier	17
Loss of dependency	Rs. 9,18,000/-
Funeral expenses	Rs. 25,000/-
Loss of consortium to widow of the deceased	Rs. 1,00,000/-

The claimants shall be entitle to addition in income for future prospects @ 40%. Income of the deceased, multiplier and deduction for personal expenses allowed by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs. 12,85,200/- [6000 x 12 x17 = 12,24,000 + 4,89,600 (40%) =17,13,600 – 4,28,400 (1/4th).

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs. 70,000/-, in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270** and **Sebastiani Lakra and others vs. National Insurance Company Limited and another AIR 2018 SC 5034**, detailed hereunder:-

Loss of consortium to widow Rs. 40,000/-

Expenses on funeral Rs. 15,000/-

Loss of estate Rs. 15,000/-

Total compensation is Rs. 13,55,200/- and the additional amount is Rs. 3,12,200/- (13,55,200- 10,43,000), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 174 days in refiling and 415 days in filing the appeal, to be invested in equal proportion in the names of minor claimants Radhima, Sujal and Harsh, payable on their attaining the age of majority or for a period of three years whichever is later.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

3.7.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No