In the High Court of Punjab and Haryana at Chandigarh

FAO- 620 of 2017 (O&M)
Date of Decision: 25.7.2019

Rajesh Devi and others

---Appellant/Petitioner

versus

Jagdeep and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: None for the appellants

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<u>Rekha Mittal, J.</u>
<u>CM No. 1856-CII of 2017</u>

Prayer in this application is for condoning delay of 203 days in filing the appeal.

In view of averments made in the application 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 application is allowed, delay of 203 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.

<u>FAO No. 620 of 2017</u>

The claimants are in appeal seeking enhancement of compensation on account of death of Rakesh in a motor vehicular accident that took place on 11.6.2014.

Mr. Satpal Dhamija, Advocate, has caused appearance on behalf of the insurance company.

The Motor Accidents Claims Tribunal, Bhiwani (in short "the Tribunal") awarded Rs.11,61,800/-, detailed hereunder:-

Monthly income of the deceased	Rs. 4800/-
Addition in income for future prospects	50%
Deduction for personal expenses	1/4th
Multiplier	16
Loss of dependency	Rs. 10.36,800/-
Loss of consortium	Rs. 1,00,000/-
Loss of estate and Funeral expenses	Rs. 25,000/-

The plea of claimants is that deceased had been earning Rs. 30,000/- per month from agriculture and dairy forming. The Tribunal, in para 16 of the award, has noticed that except bald statement made by Smt. Rajesh Devi, widow of deceased, there is no evidence on record with regard to avocation and income of deceased and the Tribunal proceeded to assess his income at Rs. 4800/- per month. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time, income of deceased is assessed at Rs. 5600/- per month. Addition in income for future prospects would be 40% in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270.** Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.11,28,960/-[5600 x 12 x16= 10,75,200 +4,30,080 = 15,05,280 – 3,76,320].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs. 70,000/-detailed hereunder:-

Loss of consortium	Rs. 40,000/-
Expenses on funeral	Rs. 15,000/-

Loss of estate Rs. 15,000/-

Total compensation is Rs. 11,98,960/- and the additional amount is Rs.37,160/- (11,98,960-11,61,800), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 203 days in filing the appeal, to minor children of deceased namely Vinshu, Anshu and Krishan in equal shares, to be invested in fixed deposit till they attain majority or for a period of three years, whichever is later. The compensation assessed by the Tribunal shall also carry interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

25.7.2019
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No