In the High Court of Punjab and Haryana at Chandigarh

FAO- 3839 of 2018 (O&M)
Date of Decision: 22.11.2019

Laxman Devi and others

---Appellants

versus

Bhagwan Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Bhishm Singh, Advocate
for Mr. Sanjeev Kr. Panwar, Advocate
for the appellant
Ms. Vandana Malhotra, Advocate,
for the insurance company

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Rekha Mittal, J.
CM No. 13449-CII of 2018

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

In view of averments made in the application 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 refiling 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.

Main case

The claimants are in appeal seeking enhancement of compensation on account of death of Braham Dutt in a motor vehicular accident that took place on 23.12.2015.

The Motor Accidents Claims Tribunal, Palwal (in short "the Tribunal") awarded Rs.12,30,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 10,000/-
Deduction for personal expenses	$1/4^{th}$
Multiplier	12
Loss of dependency	Rs. 10,80,000/-
Expenses of transportation and last rites	Rs. 20,000/-
Loss of love and affection	Rs. 30,000/-
Loss of consortium	Rs. 1,00,000/-

The plea of claimant is that deceased was working as a salesman thereby earning Rs. 30,000/- per month. However, while deposing, Smt. Laxman Devi widow of the deceased had stated that he was earning Rs. 50,000/- per month. The claimants examined Tara Chand, Proprietor of M/s Tara Tractor Workshop PW3 and he deposed that Braham Dutt used to supply spare parts at his shop. Mahesh, Proprietor of M/s Baba Garments PW4 stated that Braham Dutt used to supply cloth at his shop. There is no clear evidence on record with regard to avocation and income of deceased. The Tribunal has assessed income of the deceased at Rs.10,000/- per month. When examined in the light of minimum wage available at the relevant time, there is no justification for increasing income of the deceased. As the deceased was 38 years old, claimants shall be entitle to addition in income for future prospects @ 40% and admissible multiplier to the tune of 15. Deduction for personal expenses applied is correct and affirmed. In this manner, loss of dependency is Rs.18,90,000/- [10,000 x 12x 15 + (40% thereof) – ($1/4^{th}$)].

Under conventional heads, compensation allowed 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. 19,60,000/- and the additional amount is Rs. 7,30,000/-, payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 203 days in refiling the appeal, to widow of the deceased, to be invested in fixed deposit for a period of three years.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

22.11.2019
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No