In the High Court of Punjab and Haryana at Chandigarh

FAO-410 of 2018(O&M)
Date of Decision: 25.3.2019

Smt. Aasma and others

---Appellants

versus

Nek Ram and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Barjinder Singh, Advocate
for Mr. Ashish Gupta, Advocate
for the appellants

Mr. Punit Jain, Advocate,
for the insurance company

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Rekha Mittal, J.

CM No. 1383-CII of 2018

Prayer in this application is for condoning delay of 146 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 146 days in filing the appeal stands condoned subject, however, to the condition that in case 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 Jakir in a motor vehicular accident that took place on 11.3.2015.

The Motor Accidents Claims Tribunal, Nuh (in short “the Tribunal”) awarded Rs.9,08,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 5800/-
Deduction for personal expenses	1/4th
Multiplier	15
Loss of dependency	Rs. 7,83,000/-
Loss of consortium to widow and loss of love and affection to claimants no. 2 to 5	Rs. 1,00,000/-
Funeral expenses	Rs. 25,000/-

The Tribunal has assessed income of the deceased at Rs, 5812/- per month rounded off to Rs. 5800/-. Keeping in view the provisions providing for compensation being benevolent legislation, income of the deceased would be rounded off to Rs. 5850/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. Deduction for personal and living expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs. 11,05,650/- [5850 x 12x 15 =10,53,000 + 4,21,200(40%)= 14,74,200 -3,68,550 (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. 11,75,650/- and the additional amount is Rs. 2,67,650/-- (11,75,650-9,08,000), payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 146 days, to be shared by claimants No. 3 to 5 in equal ratio, to be invested in fixed deposit till they attain the age of majority or for a period of three years, whichever is later. The interest accruing on the FDRs shall be paid to their mother for meeting expenses on their education and living.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

25.3.2019
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No