

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

FAO No. 8091 of 2017

Date of decision : March 20, 2019

Mamta and others

.....Appellants

Versus

Bhal Singh and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Gaurav Aggarwal, Advocate for the appellants.

Mr. Amit Chaudhary, Advocate for respondent No. 1.

Mr. Satpal Dhamija, Advocate for respondent No. 4.

LISA GILL, J.

C.M. No. 26627-CII of 2017

Prayer is for condonation of delay of 105 days in filing of the appeal.

Heard.

Applicants are the widow, minor child and old parents of the deceased seeking enhancement of compensation. It is submitted that due to paucity of funds, they could not file the appeal within limitation.

In the facts and circumstances of the case, it is considered just and expedient to condone the delay of 105 days in filing this appeal and hear the matter on merits rather than dismiss the same on technical consideration of delay in filing the appeal.

Accordingly, delay of 105 days in filing this appeal is condoned.

Application is allowed.

FAO No. 8091 of 2017

Notice of motion.

Mr. Amit Chaudhary, Advocate and Mr. Satpal Dhamija, Advocate appear on behalf of respondent No. 1 and 4, respectively.

None has appeared on behalf of respondents No. 2 and 3 despite service in the application for condonation of delay. Liability of the insurance company is not in dispute. It is submitted that no useful purpose shall be served by serving the said respondents yet again, therefore, service upon respondents No. 2 and 3 be dispensed with at this stage.

Ordered accordingly.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as the 'Tribunal') on account of death of Mangat Ram vide award dated 06.03.2017.

Brief facts necessary for adjudication of the case are that the claimants i.e. widow, minor son and parents of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Mangat Ram on 08.07.2015 in a motor vehicle accident caused due to rash and negligent driving of the offending vehicle Haryana Roadways bus bearing registration No. HR-62-6069 by respondent No.1. FIR No. 202 dated 08.07.2015 under Sections 279/337/304A/427 IPC was registered at Police Station City Dabwali.

Learned Tribunal on consideration of the facts and evidence on record held that the accident, which took place on 08.07.2015 was caused by rash and negligent driving of the offending vehicle Haryana Roadways bus bearing registration No. HR-62-6069 by respondent No. 1. Learned Tribunal awarded a sum of ₹13,36,265/- with interest at the rate of 9% per annum from the date of filing of the claim petition till date of actual

realisation of the award. Income of the deceased was assessed as ₹8,505/- per month. Deduction of 1/4th was effected, keeping in view the number of dependants. Multiplier of 17 was applied as the deceased was 30 years old at that time. Additionally, consolidated sum of ₹25,000/- on account pain and suffering, loss of consortium, love and affection besides a sum of ₹10,000/- on account of funeral expenses and transportation etc. was awarded.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants submits that there is no dispute regarding income of the deceased assessed as ₹8,505/- per month by the learned Tribunal, however, in terms of judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, increment on account of future prospects at the rate of 40% should be afforded. It is submitted that though multiplier of 17 has been correctly applied, compensation under the conventional heads is meagre. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. Therefore, this appeal be dismissed and impugned award dated 06.03.2017 be upheld.

I have heard learned counsel for the parties and have gone through the available file.

There is no dispute that Mangat Ram lost his life in a motor vehicle accident, which took place on 08.07.2015 caused due to the rash and

negligent driving of vehicle Haryana Roadways bus bearing registration No. HR-62-6069 driven by respondent No.1. Finding of the learned Tribunal on this issue has attained finality.

It is a matter of record that the deceased was 30 years old at the time of the accident. There is no dispute regarding income of the deceased to be ₹8,505/- per month as assessed by the learned Tribunal. Income of the deceased, as assessed by the learned Tribunal, is thus upheld as ₹8,505/- per month. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 40% (₹3402/-) is afforded, as the deceased was 30 years old at the time of accident, which takes income of the deceased to ₹11,907/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in case of **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another** 2009 (3) RCR (Civil) 77, deduction of 1/4th is to be applied, thereby rendering income of the deceased to be ₹8930/-(11,907-2977). Applying a multiplier of 17, dependancy of the claimants is assessed as ₹18,21,720/- (₹8930x12x17). The claimants are also entitled to ₹15,000/- each for funeral expenses (instead of ₹10,000/-) and loss of estate besides the claimant widow is entitled to ₹40,000/- on account of loss of spousal consortium. Appellants No. 2 is entitled to a sum of ₹40,000/- for loss of parental consortium and appellants No. 3 and 4 are entitled to ₹40,000/- for loss of filial consortium. Reference in this regard can be gainfully made to judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other** 2018 (4) RCR (Civil) 333 and decision dated 14.03.2019 of this Court in FAO No. 2110 of 2016 and other connected matters.

Claimants are, thus, entitled to total compensation of ₹19,71,720/- detailed as under:-

Loss of dependency (₹8930x12x17)	₹18,21,720/-
Loss of spousal consortium	₹40,000/-
Loss of parental consortium	₹40,000/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹19,71,720/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

March 20, 2019

Whether speaking/reasoned :
Whether reportable :

(Lisa Gill)
Judge

Yes/No
Yes/No