

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

-.-

FAO 2213 of 2013 (O&M)

Date of decision: 23.10.2019

Dhapa Devi and another

.....*Appellant*

Versus

Kailash Bhai and another

.....*Respondent*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: None for the appellants

Mr. Navin Kapur, Advocate
for respondents No. 3 and 7

-.-

Rekha Mittal, J. (Oral)

CM 10590 CII of 2013

Prayer in this application is for condonation of delay of 412 days in re-filing the appeal.

Heard.

In view of the averments made in the application supported by an affidavit, the application is allowed and delay of 412 days in re-filing the appeal stands condoned, subject to condition that in case the appellants succeed in appeal, they will forego interest for the period of delay.

The application stands disposed of.

CM 10591 CII of 2013

Prayer in this application is for condonation of delay of 605 days in filing the appeal.

Heard.

In view of the averments made in the application supported by an affidavit, the application is allowed and delay of 605 days in filing the appeal stands condoned, subject to condition that in case the appellants succeed in appeal, they will forego interest for the period of delay.

The application stands disposed of.

Main case

The claimants are in appeal seeking enhancement of compensation on account of death of Ashok Kumar in a motor vehicular accident that took place on 11.04.1998.

Respondent No. 2 has been served through a counsel representing him before the Tribunal but failed to cause appearance.

The Tribunal awarded Rs.4,42,000/-, detailed hereunder:-

-Monthly income of the deceased	Rs.3,000/-
-Deduction for personal expenses	1/3 rd
-Multiplier	18
-Loss of dependency	Rs.4,32,000/-
-Funeral expenses	Rs.5,000/-
-Loss of consortium	Rs.5,000/-

The claimants shall be entitle to benefit of addition in income for future prospects @ 40%. Deduction for personal expenses applied by the Tribunal is correct and affirmed. As the deceased was 30 years of age at the time of occurrence, admissible multiplier is 17. In this manner, loss of dependency comes to Rs.5,71,200/- (Rs.6,12,000/- i.e. 3,000 x 12 x 17 + Rs.2,44,800/- (40% addition) – Rs.2,85,600 (1/3rd deduction)).

Under conventional heads, compensation allowed by the

Tribunal is modified to the effect that claimants shall be entitle to

Rs.50,000.00 (Rs.30,000.00 for loss of consortium, Rs.10,000.00 each qua loss to estate and funeral expenses), in the light of judgments of Hon'ble the Supreme Court *National Insurance Company Limited v. Pranay Sethi and others, 2017 SCC 1270* and *Sebastiani Lakra and others vs. National Insurance Company Limited and another, 2018 AIR (SC) 5034*.

In view of the above, total compensation is Rs.6,21,200/- and additional amount is Rs.1,79,200/- (6,21,200 - 4,42,000) payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay in filing/re-filing the appeal. However, all other terms and conditions of the award shall remain intact.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

23.10.2019
Mohan Bimbura

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No