

In the High Court of Punjab and Haryana at Chandigarh

FAO- 7380 of 2016 (O&M)
Date of Decision: 20.9.2019

Maya Devi and others

---Appellants

versus

Amit Kumar and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: None for the appellant

Mr. D.P.Gupta, Advocate,
for the insurance company/respondent

Rekha Mittal, J.

CM No. 25267-CII of 2016

Prayer in this application is for condoning delay of 107 days in filing the appeal.

In view of averments made in the application supported by affidavit of Maya Devi, appellant No. 1 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 107 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.

Main case

The claimants are in appeal seeking enhancement of compensation on account of death of Mohan Lal in a motor vehicular accident that took place on 14.12.2014.

The Motor Accidents Claims Tribunal, Hisar (in short “the Tribunal”) awarded Rs.17,08,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 9000/-
Deduction for personal expenses	1/4 th
Multiplier	18
Loss of dependency	Rs. 14,58,000/-
Loss of consortium and loss of estate	Rs. 1 lakh
Loss of love and affection the minor child and parents	Rs. 1 lakh
Transportation and Funeral ceremony	Rs. 25,000/-
Cost of litigation	Rs. 25,000/-

The plea of claimants is that deceased was working as a Cutter and Welder with M/s Ridhi Scale Industries, Uklana Mandi, Hisar at a salary of Rs. 13000/- per month. They examined Rajesh Kumar PW3. He produced attendance register and salary register but in the salary register payment given to any employee had not been recorded. He did not produce the cash book in the court. However, he had admitted that in May 2014, Mohan Lal had done work for 23 days, in June 2014 for 11 days and in July 2014 for 22 days. He further admitted that Mohan Lal was not permanent employee and salary to him was paid only on daily wages. However, there is no challenge to testimony of Rajesh Kumar with regard to the deceased working as a Cutter and Welder in M/s Ridhi Scale Industries. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time, there is no justification for allowing additional amount with regard to monthly loss of dependency. Claimants shall be entitle to

increase in income for future prospects @ 40%. Multiplier applied by the Tribunal is correct and affirmed. The application for compensation has been filed by the widow, minor son and parents of deceased. Father of deceased is stated to be 50 years of age. There is no clear evidence on record if father of the deceased was dependent upon income of his son. In the given circumstances, admissible deduction for personal expenses would be $1/3^{\text{rd}}$. In this manner, loss of dependency is calculated at Rs. 18,14,400/-[9000 x12x 18= 19,44,000 +7,77,600 (40%)= 27,21,600 – 9,07,200($1/3^{\text{rd}}$)].

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/-

The sum of **Rs. 25,000/-** allowed towards litigation expenses is affirmed.

Total amount is Rs. 19,09,400/- and the additional amount is Rs. 2,01,400/- (19,09,400 -17,08,000), payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 107 days in filing the appeal, to minor child of deceased, to be invested in fixed deposit till he attains majority or for a period of three years, whichever is later. Interest accruing on the FDR shall be paid to mother of the minor for meeting his expenses.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

20.9.2019

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