IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

224 FAO No.5849 of 2016 (O&M)

Date of decision: 06.05.2019

SHEETAL SINGH & ANR ... Appellants

Versus

HARJINDER SINGH & ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : None for the appellants.
Mr. HS Tuli, Advocate for
Mr. SS Rangi, Advocate for respondent No.1.
None for respondents No.2 and 3.
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REKHA MITTAL, J. (Oral)

CM-20044-CII-2016

Prayer in this application is for condonation of delay of 141 days in filing the appeal.

In view of averments made in the application coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 141 days in filing the appeal is condoned subject to the condition that the claimants shall forgo interest for the period of delay, in case compensation is enhanced.

Main Case

The claimants are in appeal seeking enhancement of compensation on account of death of Dharampal Singh in a motor vehicular accident that took place on 06.01.2015.

The Tribunal awarded Rs.7,89,000, detailed hereunder:-

1. Monthly income of the deceased	Rs.7000/-
2. Multiplier	17
3. Deduction for personal expenses	50%
4. Loss of dependency	Rs.7,14,000/-
5. Compensation for mental agony	Rs.50,000/-
6. Expenses on funeral	Rs.25,000/-

The plea of claimants is that the deceased was working as driver with Narotam Sales Corporation Company, Khanna at salary of

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Rs.12,000/- per month. The claimants examined Rajiv Ghai, proprietor Narotam Sales Corporation PW3 and he proved attested copy of attendance register from 12.12.2014 to 06.01.2015 Exs.P10 and P11. He also proved salary certificate Ex.P12. However, the witness did not produce any document with regard to payment of salary to the deceased on the basis of records, if any, maintained by M/s Narotam Sales Corporation. The period of employment is stated to be just 24/25 days prior to the occurrence. In the given circumstances, possibility of creating records by M/s Narotam Sales Corporation to support cause of the claimants for higher compensation is not ruled out. Taking a clue from notification issued by the State of Punjab fixing minimum wage at the relevant time coupled with that the deceased was driver by profession, income of the victim is assessed at Rs.8000/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. The admissible multiplier, on the basis of age of the deceased is 18. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. In this manner, loss of dependency is calculated at Rs.12,09,600/- [(8000 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitle to Rs.30,000/-, detailed hereunder:-

1. Expenses on last rites	Rs.15,000/-
2. Loss of estate	Rs.15,000/-

Total compensation is Rs.12,39,600/- and the additional amount is Rs.4,50,600/- (12,39,600 - 7,89,000), payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 141 days in filing the appeal, to mother of the deceased, to be invested in fixed deposit for a period of two years.

The appeal is partly allowed in the aforesaid terms.

06.05.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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

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