

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

-.-

FAO 5716 of 2015 (O&M)

Date of decision: 29.08.2019

Binder Pal and another

.....Appellants

Versus

Kanwaldeep Singh and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. S K Chaudhary, Advocate
for the appellants

Mr. R C Kapoor, Advocate
for respondent/insurance company

-.-

Rekha Mittal, J. (Oral)

CM 17952 CII of 2015

Prayer in this application is for condonation of delay of 253 days in refiling the appeal.

Heard.

In view of averments made in the application supported by an affidavit, the application is allowed and delay of 253 days in re-filing the appeal stands condoned, subject to condition that in case the applicants/appellants succeed in appeal, they will forego interest for the period of delay.

The application stands disposed of.

CM 17953 CII of 2015

Prayer in this application is for condonation of delay of 178 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit, the application is allowed and delay of 178 days in filing the appeal stands condoned, subject to condition that in case the applicants/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 Reetu wife of Binder Pal in a motor vehicular accident that took place on 25.09.2011.

The Tribunal awarded compensation of Rs.6,57,500/-, detailed hereunder:-

Monthly income of the deceased	Rs.4,500.00
Multiplier	18
Deduction for personal expenses	1/3 rd
Loss of dependency	Rs.6,48,000.00
General damages	Rs.9,500.00

The plea of claimants is that deceased was self employed by running a boutique and thereby earning Rs.15,000/- per month. The Tribunal has refused to accept this contention of claimants with regard to deceased running a boutique. In the given circumstances, income of the deceased would be assessed on the basis of her services to family consisting of her husband and a minor child. Taking a clue from notification issued by the State of Punjab fixing minimum wage coupled with that a house-maker has multifarious duties to perform, value of services of deceased is assessed at Rs.7,000/- per month. No deduction for personal and living expenses is

made, in the light of Division Bench judgment of this Court ***Paramjit Singh and another Vs. Dilbagh Singh @ Bagga and others, 2013(3) Law Herald 2730***. Multiplier applied by the Tribunal is correct and affirmed. In this manner, loss of dependency comes to Rs.7,000 x 12 x 18 = Rs.15,12,000/-.

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.55,000.00 (Rs.40,000.00 for loss of consortium and Rs.15,000.00 for 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***.

Total compensation is Rs.15,67,000/- and additional amount is Rs.9,09,500/- (15,67,000 – 6,57,500) payable with interest @ 7.5% per annum from the date of petition till realization to minor son of the deceased, except for the period of delay in filing/re-filing the appeal, to be invested in fixed deposit till he attains majority or for a period of three years, whichever is later.

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

(Rekha Mittal)
Judge

29.08.2019
Mohan Bimbura

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