

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

CM No. 23847 CII of 2014 in/and
FAO No. 8739 of 2014 (O&M)
Date of decision: 17.10.2019

Joginder Kaur and others

...Appellants

Versus

Darshan Singh and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Chander Kant Thakur, Advocate,
for the appellants.

Mr. V.C. Garg, Advocate,
respondents No. 2—Insurance Company.

JAISHREE THAKUR, J.

CM No. 23847 CII of 2014

This is an application that has been filed for condonation of 234 days' delay in filing the appeal.

For the reasons stated in the application, which is supported by an affidavit, the delay in filing the appeal is condoned.

CM stands disposed of.

Main case

The instant appeal has been filed challenging the award dated 5.10.2013 passed by the Motor Accidents Claims Tribunal, Karnal, on the ground that the compensation that has been awarded is wholly inadequate.

In brief, the facts are that an accident took place on 17.7.2011,

when the deceased—Baldev Singh, driver of a canter, was proceeding to Gurgaon, for unloading the vegetable, a truck going ahead of him abruptly applied the brakes, due to which the canter collided against the said truck. On account of the accident, Baldev Singh succumbed to the injuries sustained by him, which led to the filing of a claim petition under Section 163-A of the Motor Vehicles Act before the Motor Accident Claims Tribunal, Karnal. On appreciation of the evidence, specially the eye witness who was also travelling in the canter, the Tribunal allowed compensation to the legal representatives of Baldev Singh to the extent of ₹3,82,838/-. Aggrieved against the said compensation, the instant appeal has been filed.

I have heard learned counsel for the parties and with their assistance have perused the impugned award.

No appeal has been filed either by the owner of the vehicle involved in the accident or the insurance company, therefore, the only question that remains for adjudication is, whether adequate compensation has been allowed to the claimants on account of the death of Baldev Singh. It is an admitted fact that the deceased Baldev Singh was a driver of the Canter and was getting total salary of ₹40,000/- per annum. Since the deceased was financially supporting five dependents, the Tribunal deducted 1/3rd of his salary towards his personal expenses. However, perusal of the award clearly reflects that the Tribunal has erred in applying multiplier of 14, whereas as per the Schedule given under Section 163-A of the Act, multiplier of 15 ought to have been applied. Therefore, compensation payable to the appellants is re-worked is tabulated as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Baldev Singh
(ii)	Date of accident	17.7.2011
(iii)	Age of the deceased	42 years
(iv)	Annual income of the deceased	₹ 40,000/-
(v)	1/3 rd of (v) above deducted towards personal expenses	(₹ 40,000-₹13,333 = ₹ 26,667/- per annum
(vi)	Compensation calculated after applying the multiplier of 15	(₹26667X15) = ₹ 4,00,005/-
(vii)	Funeral expenses	₹ 2000
(viii)	Compensation for loss of consortium	₹ 5000
(ix)	Compensation for loss of estate	₹ 2500
Total		₹4,09,505

As a sequel of my discussion above, the appeal is partly allowed. The award of the Tribunal is modified and the total compensation payable to the claimants shall be ₹ 4,09,505/- and the amount in excess over what was awarded will also attract interest @7.5% from the date of the petition till the date of payment. However, the appellants would not be entitled to seek interest for the days there was a delay in filing of the appeal. The claimants will share the amount of compensation as per the award of the Tribunal.

17.10.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No