In the High Court of Punjab and Haryana at Chandigarh

FAO- 8455 of 2017(O&M)
Date of Decision: 3.4.2019

Krishna Devi and others

---Appellants

versus

Amar Singh and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. J.P.Sharma, Advocate
for the appellants

Mr. Pankaj Mehta, Advocate,
for the insurance company

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Rekha Mittal, J.

CM No. 27548-CII of 2017

Prayer in this application is for condoning delay of 95 days in filing the appeal.

In view of averments made in the application supported by affidavit of Krishna 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 95 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.

<u>FAO-8455 of 2017</u>

The claimants are in appeal seeking enhancement of compensation on account of death of Sarjit in a motor vehicular accident that took place on 1.3.2016.

The Motor Accidents Claims Tribunal, Narnaul (in short "the Tribunal") has awarded Rs.9,97,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 6000/-
Addition in income for future prospects	50%
Deduction for personal expenses	50%
Multiplier	18
Loss of dependency	Rs. 9,72,000/-
Expenses on transportation, funeral and last rites	Rs. 25000/-

Counsel for the appellants would argue that income of the deceased assessed by the Tribunal is far below the minimum wage available at the relevant time. The Tribunal has not awarded compensation for loss of estate.

Counsel representing the insurance company, on the other hand, would urge that addition in income for future prospects should be 40% in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270.**

There is nothing on record suggestive of the fact that the deceased had any disability to impair his capacity to earn. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time, income of the deceased is assessed at Rs. 8000/- per month. Addition in income for future prospects would be 40% in the light of **Pranay Sethi and others' case (supra).** Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs. 12,09,600/- [8000 x12x18= 17,28,000 + 6,91,000 (40%)= 24,19,200- 12,09,600(50%)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs. 30,000/- in the light of judgments of Hon'ble the Supreme Court **Pranay Sethi and others' case (supra)** and **Sebastiani Lakra and others vs. National Insurance Company Limited and another AIR 2018 SC 5034,** detailed hereunder:-

Expenses on funeral	Rs. 15,000/-
Loss of estate	Rs. 15,000/-

Total compensation is Rs. 12,39,600/- and the additional amount is Rs. 2,42,600/- (12,39,600-9,97,000), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 95 days in filing the appeal, to mother of the deceased, to be invested in fixed deposit for a period of three years.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

3.4.2019
PARAMJIT

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