

In the High Court of Punjab and Haryana at Chandigarh

FAO-16090 of 2018(O&M)

Date of Decision: 1.7.2019

Gara Ram and another through her Lrs.

---Appellants

versus

Mohan and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Ms. Amandeep Kaur, Advocate
for Mr. Ashwani Arora, Advocate
for the appellants**

Rekha Mittal, J.

CM No. 28656-CII of 2018

Prayer in this application is for condoning delay of 8 days in filing the appeal.

Heard.

Allowed as prayed for. Delay of 8 days in filing the appeal stands condoned.

Disposed of accordingly.

CM No. 28657-CII of 2018

Prayer in this application is for impleading legal representatives of Smt. Channo Devi- appellant No. 2 (since deceased).

In view of averments made in the application supported by an affidavit of Gara Ram appellant and arguments advanced by counsel for the applicant, the application is allowed and persons mentioned in para No. 2 of the application are allowed to be brought on record as legal representatives

of Smt. Channo Devi-appellant No. 2 (since deceased), for the purpose of present lis only, subject to just exceptions.

Disposed of accordingly.

Main case

The claimants are in appeal seeking enhancement of compensation on account of death of Vijay Kumar in a motor vehicular accident that took place on 30.1.2011.

The Motor Accidents Claims Tribunal, Ludhiana (in short “the Tribunal”) has awarded Rs.10,24,140/-, detailed hereunder:-

Monthly income of the deceased	Rs. 5000/-
Addition in income for future prospects	40%
Deduction for personal expenses	50%
Multiplier	17
Loss of dependency	Rs. 7,14,000/-
Funeral expenses	Rs. 15,000/-
Loss of estate	Rs. 15,000/-
Medical expenses	Rs. 2,80,140/-

Counsel for the appellants would argue that Vijay Kumar sustained injuries on 30.1.2011 but he died on 6.10.2015. Parents of the deceased suffered mental agony for all these years when the deceased himself suffered tremendously. It is argued that compensation may be allowed for mental agony suffered by family members of the deceased. For this purpose, reference has been made to judgment of Hon'ble the Supreme Court **N. Sivammal and others vs. Managing Director, Pandian Roadways Corporation and another 1985(1) SCC 18.**

I have heard counsel for the appellants but find no reason to allow addition in compensation.

The judgment in **N. Sivammal and others' case (supra)** was

rendered in view of provisions of Section 110 of the Motor Vehicles Act, 1939. Counsel has failed to cite any judgment rendered by taking into consideration the provisions of the Motor Vehicles Act, 1988, attracted in the present circumstances. Pain suffered by the victim is not to be compensated as it was his personal loss and did not survive after his death. The Tribunal has assessed income of the deceased at Rs. 5000/- per month which is more than the minimum wage available in the year 2011. The criteria followed by the Tribunal for assessing compensation qua death of Vijay Kumar is in complete consonance with judgment by the Constitution Bench of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270**. In this view of the matter, plea of the claimants for allowing additional compensation is not tenable.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

1.7.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No