IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 4.3.2020

1. **FAO No. 4378 of 2013(O&M)**

Indu Bala and others …..Appellants

VERSUS

Kannan Raj and others .....Respondents

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2. **FAO No. 4379 of 2013(O&M)**

Usha Rani and another …..Appellants

VERSUS

Kannan Raj and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Arvind Thakur, Advocate for the appellants.

Mr. Vinod Chaudhri, Advocate for respondent No.3.

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REKHA MITTAL, J. (Oral)

CM No.18198-CII of 2013

Prayer in this application is for condoning delay of 406 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Indu Bala– appellant No.1, the application is allowed. Delay of 406 days in filing the appeal stands condoned, subject to the condition that in case the appellants succeed in appeal, they will forgo interest for the period of delay.

Disposed of accordingly.

FAO Nos.4378 and 4379 of 2013

This order will dispose of FAO Nos.4378 and 4379 of 2013 as these have emerged out of the same accident whereby compensation has been allowed on account of death of Joginder Pal son of Puran Chand and Somnath son of Milkhi Ram, in a motor vehicular accident that took place on 06.02.2010.

FAO No.4378 of 2013 has been filed by Indu Bala and others seeking additional compensation with regard to death of Joginder Pal whereas the other appeal has been filed by Usha Rani and others for the same relief qua death of Somnath.

FAO No.4378 of 2013

Counsel for the parties are ad idem that respondents before the Tribunal including United India Insurance Co. Ltd. (hereinafter referred to as 'the insurance company') have been held to be jointly and severally liable to pay compensation. That being so, service of respondents No.1 and 2 is dispensed with.

The Tribunal awarded Rs.18,43,425/- detailed hereunder:-

Monthly income of the deceased	Rs.22,226/-
Deduction for personal expenses	1/3rd
Deduction qua income tax	Rs.16,700/-
Annual income	Rs.1,66,675/-
Multiplier	11
Loss of dependency	Rs.18,33,425/-
Loss of consortium to claimant No.1	Rs.10000/-

The deceased was working as Lab Attendant with Ranjit Sagar Dam Project, Shahpurkandi and drawing gross salary of Rs.22,226/-

per month. Annual salary is Rs.2,66,712/-; after deducting income tax, net annual salary is Rs.2,55,041/-. The claimants shall be entitle to addition in income for future prospects at the rate of 15%. Deduction for personal expenses and multiplier allowed by the Tribunal are correct and affirmed. In this manner, loss of dependency comes to Rs.21,50,846/- [Rs.28,05,451/- (Rs.2,55,041 x 11) + Rs.4,20,818/- (15% addition towards future prospects) – Rs.10,75,423/- (1/3rd deduction towards personal expenses)].

Under conventional heads, claimants shall be entitle to Rs.70,000/- detailed hereunder:-

Loss of consortium	Rs.40,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-

In view of the above, total compensation is Rs.22,20,846/- and additional amount is Rs.3,77,421/- (Rs.22,20,846/- - Rs.18,43,425/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization except for the period of delay of 406 days in filing the appeal, to widow of the deceased. Compensation assessed by the Tribunal shall also carry interest at the rate of 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

FAO No.4379 of 2013

The Tribunal awarded Rs.3,46,056/- detailed hereunder:-

Monthly income of the deceased	Rs.6001/-
Deduction for personal expenses	1/3rd
Multiplier	7
Loss of dependency	Rs.3,36,056/-

Loss of consortium to claimant No.1 Rs.10000/-

Counsel for the appellants would argue that the Tribunal has not extended benefit of addition in income for future prospects. Adequate compensation may be allowed under conventional heads.

Counsel for the insurance company, on the contrary, would argue that deceased was a pensioner and 65 years of age. As such, claimants are not entitle to addition in income for future prospects.

Admittedly, the deceased was a pensioner as earlier he was working as an Electrician. Claimants are not entitle to addition in income for future prospects. However, compensation allowed under conventional heads is modified to the effect that the claimants shall be entitle to Rs.70,000/- detailed hereunder:-

Loss of consortium	Rs.40,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-

In this manner, additional amount of Rs.60,000/- shall be paid with interest at the rate of 7.5% per annum from the date of petition till realisation except for the period of delay of 406 days in filing the appeal, to widow of the deceased. Compensation assessed by the Tribunal shall also carry interest at the rate of 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

MARCH 4, 2020 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**
Whether speaking/reasoned : yes/no
Whether reportable : yes/no