

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

-.-

FAO 1246 of 2017 (O&M)

Date of decision: 20.01.2020

Santosh and others

.....*Appellants*

Versus

Rajesh Kumar and others

.....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Ms. Usha Rani, Advocate for
Mr. Rakesh Kumar Sharma, Advocate
for the appellants

Mr. Sachin Ohri, Advocate
for respondent No. 3

-.-

Rekha Mittal, J. (Oral)

CM 3999 CII of 2017

Prayer in this application is for condoning delay of 157 days in
re-filing the appeal.

Heard.

In view of averments made in the application supported by an
affidavit and arguments advanced, the application is allowed and delay of
157 days in re-filing the appeal stands condoned.

CM 3998 CII of 2017

Prayer in this application is for condoning delay of 12 days in
filing the appeal.

Heard

Allowed as prayed for.

Disposed of accordingly.

Main case

The claimants are in appeal seeking enhancement of compensation on account of death of Bhagat alais Bablu in a motor vehicular accident that took place on 19.04.2014.

The Tribunal awarded Rs.7,50,000/-, detailed hereunder:-

-Monthly income of the deceased	Rs.5,000/-
-Deduction for personal expenses	1/4 th
-Multiplier	14
-Loss of dependency	Rs.6,30,000/-
-Loss of consortium	Rs.1,00,000/-
-Funeral expenses	Rs.10,000/-
-Loss of estate	Rs.10,000/-

Cousnel for the appellants would argue that income of the deceased assessed by the Tribunal is on lower side. The claimants are also entitle to addition in income for future prospects.

Cousnel for the insurance company has supported assessment of income made by the Tribunal but would pray that compensation under conventional heads may be restricted to Rs.70,000/-.

The plea of claimants is that deceased was doing agricultural work and milk vending thereby earing Rs.15,000/- per month. However, they have failed to substantiate their plea in respect of avocation much less income of the deceased. The Tribunal has assessed income of the deceased by treating him as a casual workman. Taking a clue from notification issued by the State of Haryana fixing minimum wage, income of deceased is assessed at Rs.5,600/- per month. The claimants shall be entitle to addition

in income for future prospects @ 25%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is Rs.8,82,000/- (Rs.9,40,800/- *i.e.* 5,600 x 12 x 14 + Rs.2,35,200/- (25% additon in income) – Rs.2,94,000/- (1/4th deduction).

Under conventional heads, compensation allowed is modified to the effect that claimants shall be entitle to Rs.70,000.00 (Rs.40,000.00 for loss of consortium, Rs.15,000.00 each qua loss to estate and 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.9,52,000/- and additional amount is Rs.2,02,000/- (9,52,000 – 7,50,000), payable with interest @ 7.5% per annum from the date of petition till realisation to minor children of deceased in equal ratio, to be invested in fixed deposit till they attain majoirty 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

20.01.2020
Mohan Bimbura

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