IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

-.-

FAO No. 7526 of 2016 and
Cross objections No. 217 of 2019 (O&M)
Date of decision: 20.02.2020

Smt. Krishna Devi and another ....*Appellants*

Versus

Naresh and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Arun Singal, Advocate
for the appellants/claimants

Mr. D R Bansal, Advocate
for respondent No. 3- insurance company/cross objector

-.-

Rekha Mittal, J. (Oral)

CM 25654 CII of 2016

Prayer in this application is for condoning delay of 28 days in 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 28 days in filing the appeal stands condoned.

CM 23366 CII of 2019

Prayer in this application is for condoning delay of 240 days in filing the cross objections.

Heard.

In view of averments made in the application supported by an affidavit and arguments advanced, the application is allowed and delay of 240 days in filing the cross objections stands condoned.

Main case

This order will dispose of aforesaid appeal as well as cross objections as these have emerged out of the same award dated 15.03.2016 passed by the Motor Accidents Claims Tribunal, Panipat (in short, 'the Tribunal') whereby compensation has been assessed on account of death of Satish in a motor vehicular accident that took place on 03.11.2013.

The appeal has been filed by the claimants seeking additional compensation whereas cross objections have been filed by the insurance company to assail only quantum of compensation.

The Tribunal, in the application filed under Section 163-A of the Motor Vehicles Act, 1988 (in short, 'the Act') awarded Rs.4,91,400, detailed hereunder:-

-Monthly income of deceased	Rs.3,300/-
-Deduction for personal expenses	50%
-Multiplier	18
-Loss of dependency	Rs.3,56,400/-
-Loss of love/affection	Rs.1,00,000/-
-Transportation	Rs.10,000/-
-Funeral and last rites	Rs.25,000/-

Counsel for the appellants/claimants would argue that as the claim has been filed under Section 163-A of the Act, deduction for personal expenses should be 1/3rd.

Counsel representing the insurance company/cross objector, on the contrary, would argue that multiplier applied and compensation allowed under conventional heads may be modified in the light of Second Schedule appended to Section 163-A of the Act.

Income of deceased assessed by the Tribunal is correct and affirmed. Deduction for personal expenses would be 1/3rd. The deceased was more than 20 but less than 25 years, therefore, admissible multiplier is 17. In this manner, loss of dependency is Rs.4,48,800/- (Rs.6,73,200/- *i.e.* 3,300 x 12 x 17- Rs.2,24,400/- (1/3rd deduction).

Under conventional heads, compensation allowed is modified to the effect that claimants shall be entitle to Rs.4,500/- i.e. Rs.2,000/- towards funeral expenses and Rs.2,500/- for loss of estate.

Total compensation is Rs.4,53,300/- and compensation assessed by the Tribunal is reduced to the extent of Rs.38,100/- (4,91,400 - 4,53,300). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

For the foregoing reasons, the appeal and cross objections are disposed of in the aforesaid terms.

(Rekha Mittal)
Judge

20.02.2020
Mohan Bimbra

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