IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO-4653-2018 (O&M)
Decided on : 28.03.2022

Priya and others

. . . Appellants

Versus

Himachal Roadways (sic. Road) Transport Corporation and another

. . . Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vikas Sheel Verma, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate
for respondents No.1 & 2.

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MANJARI NEHRU KAUL, J. (ORAL)

CM-15609-CII-2018

This is an application filed under Section 5 of the Limitation Act read with Section 151 CPC for condonation of delay of 1469 days in filing the present appeal.

Notice of this application was issued.

After hearing learned counsel for the parties and perusing the averments made in the application, which is supported by an affidavit of appellant No.1, the delay of 1469 days in filing the appeal is hereby condoned.

CM stands disposed off.

FAO-4653-2018 (O&M)

The appellants-claimants who are wife, minor children, mother and father respectively, of the deceased Lal Chand, are impugning the award dated 24.10.2013 passed by learned Motor Accidents Claims Tribunal, Chandigarh vide which their claim petition

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was allowed and they were awarded Rs.14,21,000/- @ 7.5% per annum from the date of filing of the petition till its actual realization. The amount awarded by the Tribunal in the sum of Rs.14,21,000/- was assessed and granted as follows:-

Sr. No.	**Head**	**Amount**
1.	Monthly Income	Rs.9000/-
2.	Annual Income	12x9,000=Rs.1,08,000/-
3.	Future Prospects	--
4.	Total Annual Income	Rs.1,08,000/-
5.	Deduction (50%) 1/4th	Rs.27,000/-
6.	Annual Dependency	Rs.81,000/-
7.	Multiplier	16
8.	Total Dependency	Rs.81,000x16=Rs.12,96,000/-
9.	Loss of Consortium	Rs.1,00,000
10.	Filial Consortium to Mother and Father	--
11.	Funeral Expenses	Rs.25,000/-
12.	Loss of Estate	--
13.	Total Compensation	Rs.14,21,000/-

2. On 12.10.2012, Lal Chand (since deceased), aged 32 years, boarded Bus No. HP-42-1184 at Reckong Peo for Rampur. At about 6:30 PM, when the bus reached near Garam Pani Tapri, its driver, who was driving rashly and negligently, lost control of the bus, as a result of which the bus fell into Satluj river. Several passengers including the driver of the bus and Lal Chand lost their lives. Deceased Lal Chand was stated to be working as a mason and earning Rs.10,000/- per month.

3. Learned counsel for the appellants/claimants contended that though the learned Tribunal vide its impugned award recorded a positive finding that the accident in question had occurred due to the

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rash and negligent driving of the driver of respondent No.1 and but had awarded inadequate compensation in the sum of Rs.14,21,000/- to them, which required to be reassessed and enhanced.

4. It was submitted that the monthly income of the deceased was wrongly assessed as Rs.9000/- per month, whereas, the deceased Lal Chand was working as a mason and earning approximately Rs.10,000/- p.m. In support of his submissions, learned counsel placed reliance upon ***Shivakumar M. Vs. The Managing Director, BMTC, 2017(3) Scale 265***, where the Apex Court while observing that since a daily wager cannot have any proof of his/her income, assessed the income of the appellant therein as Rs. 15,000/- p.m. It was further submitted that the compensation assessed *qua* the other conventional heads also required to be reassessed in the light of the settled law in ***National Insurance Co. Vs. Pranay Sethi, 2017 SCC 270*** and ***Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram & Ors., 2018(4) RCR (Civil) 333***.

5. Learned counsel appearing for the insurance company opposed the submissions made by the counsel opposite by submitting that in the absence of any proof of income of the deceased brought on record before the Tribunal, it had rightly assessed the income of the deceased @ Rs.9000/- p.m. after taking into account the minimum prescribed wages notified by the State of Haryana for the relevant period *qua* skilled labourer.

6. After hearing learned counsel for the parties and on perusing the case file, this Court is of the opinion that no inference is warranted with respect to the monthly income of the deceased, which

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has been rightly assessed at Rs.9000/- p.m. However, the compensation awarded by the Tribunal requires to be reassessed in consonance with the judgment rendered by the Constitution Bench of Hon'ble Supreme Court in ***Pranay Sethi's case*** *(supra)*.

7. The Hon'ble Supreme Court in ***Pranay Sethi's case*** *(supra)* has quantified the amount in the sum of Rs.15,000/- each, to be awarded for loss of estate, funeral expenses and Rs.40,000/- loss of consortium. Still further, it has been held that the aforesaid amount would be further subject to 10% enhancement after every three years. Therefore, the appellants would be entitled to 10% enhancement *qua* the compensation under conventional heads, as has also been held and reassessed by Hon'ble Supreme Court in ***Rasmita Biswal and others Vs. Divisional Manager, National Insurance Co. Ltd. and another : 2022(1) RCR(Civil) 344*** as per the ratio laid down in ***Pranay Sethi's case(supra)***. Hence, the amount of compensation under the conventional heads stands modified to Rs.16,500/- each, for loss of estate & funeral expenses and Rs.44,000/- for loss of consortium respectively. Since, the Tribunal did not grant any compensation *qua* future prospects, the claimants are also entitled to future prospects to the extent of 40% keeping in mind the age of the deceased, who was 32 years old.

8. Resultantly, the compensation is re-assessed as follows:-

Sr. No.	**Head**	**Amount**
1.	Monthly Income	Rs.9000/-
2.	Annual Income	12x9000=Rs.1,08,000/-
3.	Future Prospects (40%)	Rs.1,08,000x40%=Rs.43,200/-
4.	Total Annual Income	Rs.1,51,200/-

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5.	Deduction towards personal expenses (¼)	Rs.37,800/-
6.	Annual Dependency	Rs.1,13,400/-
7.	Multiplier	16
8.	Total Dependency	Rs.1,13,400 x 16=Rs.18,14,400/-
9.	Filial Consortium to Mother and Father	Rs.88,000/- (i.e.Rs.44,000/- each)
10.	Parental consortium to two minor children	Rs.88,000/- (i.e.Rs.44,000/- each)
11.	Spousal consortium to spouse	Rs. 44,000/-
10.	Funeral Expenses	Rs.16,500/-
11.	Loss of Estate	Rs.16,500/-
12.	Total Compensation	Rs.20,67,400/-

The appellants-claimants are therefore, held entitled to a total of Rs.20,67,400/- as compensation along with interest @ 9% per annum from the date of filing of petition till its actual realization to be paid by the respondents jointly and severally.

With these modifications, the present appeal stands disposed of in above terms.

(MANJARI NEHRU KAUL)
JUDGE

March 28, 2022

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No

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