

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

**FAO No. 7522 of 2014 (O&M)
DATE OF DECISION :- May 03, 2023**

Bir Bhan and another

...Appellants

Versus

Jai Karan and another

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Sanjeev Majra, Advocate for the appellants.

C.M No. 20151-CII of 2014

This is an application for condonation of delay of 99 days in filing of the appeal.

Heard.

Such delay does not appears to be intentional or wilful and in the interest of justice, the delay stands condoned.

The application is allowed.

FAO No. 7522 of 2014

Briefly stated the facts of the case are that Sh. Bir Bhan, aged about 60 years, father and Smt. Amarjeet, aged about 59 years, mother of Satbir, an unfortunate victim of a road side accident had brought a claim petition under Section 166 of the Motor Vehicle Act, 1988 against Jai Karan, driver-cum-owner of Tata 407 bearing registration No. HR-45-1951 (hereinafter referred to as the offending vehicle) and Oriental Insurance Company through its branch office at Kaithal, insurer of that vehicle

claiming compensation for the reason of death of Satbir Singh in a motor vehicular accident, which took place on 26.6.2012 at about 11. A.M in the area within jurisdiction of Police Station Kalayat, District Kaithal, statedly on account of rash and negligent deriving of offending vehicle by respondent No. 1 Jai Karan.

After contest, the claim petition was allowed by Motor accident Claims Tribunal, Kaithal vide Award dated 10.1.2014 and compensation of Rs.7,65,200/- was awarded to the claimants payable by both the respondents their liability being joint and several, with interest at the rate of 7.5% per annum from the date of filing of claim petition till actual realization.

Finding the compensation awarded to be on lower side, the claimants have approached this Court by way of filing an appeal, which was beyond period of limitation and an application under Section 5 of the Limitation had been filed for condonation of delay. Respondent No. 2 was, put to notice, it was served but did not put in appearance. The delay in filing of the appeal has since been condoned.

I have heard learned counsel for the appellants besides going through the record.

The Tribunal while assessing the compensation had taken the age of deceased to be 22 years. The contention of the claimants that his avocation was as a Paledar was not found to be worthy of acceptance as the claimants had not led any cogent and definite evidence regarding exact income of the deceased. Therefore, deceased was taken as a casual labourer and his income was taken as Rs.4600/- per month keeping in view the minimum wages for casual workers prevalent in the State of Haryana in the year 2012. Addition of 50% was made towards future prospects when as per

settled law it should have been 40%. In any case the deduction of 50% of the income was made towards personal and living expenses of deceased and the dependency of the claimants was worked out to Rs.3450/- per month. In that way, the annual dependency of claimants was worked out to 3450 x 12 =Rs.41,400/-. Multiplier of 18 was rightly used by the Tribunal. In that way the total compensation was worked out to 7,45,200/- (41,400 x 18). A sum of Rs.20,000/- was granted to the claimants towards expenses for performing last rites and for transportation etc. whereas no compensation was awarded under the Head loss of Estate to the tune of Rs.15,000/- and loss of consortium to the extent of Rs.40,000/-. However, non grant of compensation under those Heads is offset by the fact that future prospects at the rate of 50% have been granted instead of 40%.

I find compensation so awarded to be fair and reasonable and I do not see any reason to enhance the same.

The appeal is found to be without merit and is dismissed accordingly.

(H.S. MADAAN)

JUDGE

May 03, 2023

p.singh

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