

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

FAO No. 1171 of 2017 (O&M)

DATE OF DECISION :- January 09, 2023

Ankauri and others

...Appellants

Versus

Suresh Rana and another

...Respondents

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

Present:- Mr. Jainainder Saini, Advocate for the appellants.

Mr. Vinod S. Bhardwaj, Advocate
for respondent No. 2-Insurance Company.

C.M. No. 3843-CII of 2017

This is claimants appeal seeking enhancement of compensation awarded to them by Motor Accident Claims Tribunal, Hisar on account of death of Mahender Kumar in a motor vehicular accident. The appeal has been filed belatedly by 293 days. An application under Section 5 of the Limitation Act seeking condonation of that delay has been filed contending that the delay was not intentional or wilful but on account of financial constraints; the appellants would not have gained anything by delayed filing of the appeal.

The reasons given seem to be plausible. In the interest of justice, the application is allowed and delay of 293 days in filing of the appeal is condoned.

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In this appeal the grouse of the appellants is that the age of the deceased at the time of his death in the accident was 25 years, however, while calculating the compensation the Tribunal adopted multiplier of 14 instead of 18 and no addition towards future prospects was made.

Learned counsel representing the Insurance Company in all fairness has conceded that multiplier of 18 is to be used and addition of 40% is to be made towards future prospects.

The Tribunal had taken the age of the deceased to be 25 years and his monthly income as Rs.7500/- from avocation of a Carpenter. In that way the monthly income is calculated as Rs.10,500/- after adding 40% of the income towards future prospects. Keeping in view the fact that he was a bachelor, deduction of 50% of such income is to be made towards personal and living expenses of the deceased. In that way the dependency of the claimants comes out to Rs.5,250/- per month. The annual dependency comes out to Rs.63,000 per month (5,250 x 12). Using multiplier of 18, the total compensation comes out to Rs.11,34,000/-. The claimants are entitled to get compensation under the Head loss of consortium at the rate of Rs.40,000/- each. The claimants are entitled to get Rs.15,000/- under the Head funeral expenses and loss of Estate. The total compensation payable is thus worked out to Rs.12,84,000/-. The Tribunal has awarded compensation of Rs.7,80,000/-. In that way, the amount of compensation is enhanced by Rs.5,04,000/-. The claimants shall be entitled to recover the enhanced amount of compensation from the respondents with interest at the rate of 7.5% per annum from the date of filing of claim petition till actual realization besides costs. The apportionment of compensation and the manner of payment shall remain the same as given in the Award.

The appeal is allowed partly.

(H.S. MADAAAN)
JUDGE

January 09, 2023
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No