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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-6410-2017 (O&M)
Date of Decision : 21.03.2023

Harpreet Kaur and Others ....Appellants

VERSUS

Jagdev Singh and Another ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. N.K.Manchanda, Advocate for the appellants.

Mr. Varun Sharma, Advocate for

Mr. Ashwani Talwar, Advocate for respondent No.2.

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ALKA SARIN, J. (Oral)

CM-20479-CII-2017

This is an application under Section 5 of the Limitation Act, 1963 for condonation of delay of 149 days in filing the present appeal.

For the reasons stated in the application, the same is allowed. The delay of 149 days in filing the present appeal is condoned, subject to the condition that no interest would be awarded for the period of delay in filing the appeal.

FAO No.6410 of 2017

The present appeal has been preferred by the claimants challenging the award dated 15.11.2016 passed by the Motor Accident Claims Tribunal, Faridkot (hereinafter referred to as the 'Tribunal'). The only challenge in the present case is to the quantum of compensation awarded to the claimants. Since the factum of the accident is not in dispute, the facts are not being adverted to for the sake of brevity.

Learned counsel for the claimant-appellants would contend that the deceased was a driver and was plying a tempo. However, the Tribunal treating him to be an unskilled labourer, assessed his income as Rs.7,500/- per month. Learned counsel would further contend that his income ought to have been assessed as that of a skilled labourer which was Rs.8,887.52 per month at the time of the accident. It is further the contention that though the multiplier has rightly been applied and deduction of $1/4^{th}$ has rightly been made, however no amount has been awarded towards future prospects as per the law laid down by the Hon'ble Supreme Court in the case of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**. Learned counsel would further contend that as per the law laid down by the Hon'ble Supreme Court in the cases of **Pranay Sethi (supra), Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130],** the amounts awarded under the conventional heads and under the head consortium are also on the lower side.

Per contra learned counsel for respondent No.2 has contended that the income of the deceased has rightly been assessed as that of an unskilled labourer since there was no evidence on the record. It is further contended that there is no scope of any enhancement of compensation. Learned counsel would further contend that future prospects at best have to be awarded at 10% and not 25% since the age of the deceased was taken to be in the age bracket of 46-50.

In the present case the Tribunal has awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.7,500/-
2	Annual income	Rs.90,000/- (7,500 x 12)
3	Deduction 1/4th	Rs.67,500/- (90,000 – 22,500)
4	Multiplier of 13	Rs.8,77,500/-
6	Funeral expenses	Rs.25,000/-
7	Loss of Consortium	Rs.1,00,000/-
8	**Total Compensation**	Rs.10,02,500/-
9	**Rounded off**	Rs.10,03,000/-
	Interest	6% per annum

I have heard learned counsel for the parties.

The deceased in the present case was plying a Tempo, which was also involved in the accident. As per the copy of the Registration Certificate (Ex.D/3) of the Tempo which was being driven by the deceased, the same was owned by Zora Singh who had also executed a special power of attorney (Ex.P/4) in favour of the deceased. The special power of attorney (Ex.P/4) reveals that the deceased Balkar Singh was authorized by Zora Singh to ply the Tempo and to do all acts relating to the Tempo in question. In view of the said evidence and no evidence to the contrary, the deceased ought to have been treated as a skilled worker and his income ought to have been assessed accordingly. In view thereof, the income of the deceased is assessed on the basis of being a skilled worker at Rs.8,900/- (Rs.8887.52 rounded off) per month. The Tribunal has rightly applied a multiplier of 13 keeping in view the age of the deceased which has been taken within the age bracket of 46-50. Deduction has also rightly been made as 1/4th. However no amount has been awarded towards future prospects. The Tribunal has assessed the age of the deceased to be in the age bracket of 46-50 years, since the age of the deceased as per the claimants was 46 years. However, the age of the deceased was mentioned to be 50 years at the time of accident. In the absence of any documentation qua the exact date of birth of the deceased, it cannot be taken that the deceased was beyond 50 years. In view thereof, an addition of 25% would have to be made towards future prospects. The amounts awarded under the conventional heads and under the head consortium would also need to be re-worked out keeping in view the law laid down in the case of **Magma General Insurance Company Limited** *(supra)*. The claimants would be entitled to an amount of Rs.16,500/- towards loss of estate, Rs.16,500/- towards funeral expenses and Rs.44,000/- each under the head consortium (Spousal/Parental).

In view of the above, the enhanced amount of compensation to which the claimant-appellants are held entitled to is re-calculated as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income of the deceased	Rs.8,900/-
2	Annual Income of the deceased	Rs.1,06,800/-
3	Annual dependency of the claimants after deduction of 1/4th	Rs.80,100/- (1,06,800 – 26,700)
4	Future Prospects @ 25%	Rs.1,00,125 (80,100 + 20,025)
5	Multiplier of 13	Rs.13,01,625/-
6	<u>Loss of Consortium</u> (i) Parental (3 children) (ii) Spousal	 44,000 x 3 = Rs.1,32,000/- 44,000/- = Rs. 44,000/- Total = Rs.1,76,000/-

	Loss of Estate	Rs.16,500/-
8	Funeral Expenses	Rs.16,500/-
	Total Compensation	**Rs.15,10,625/-**
	Amount Awarded by the Tribunal	**Rs.10,03,000/-**
	Enhanced amount	**Rs.5,07,625/-**

The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 6% from the date of the filing of the claim petition till the realization of the entire amount. It is, however, made clear that for the period of delay of 149 days in filing the present appeal no interest shall be payable to the claimant-appellants on the enhanced amount of compensation. The enhanced amount shall be apportioned between the claimant-appellants as directed by the Tribunal.

In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

March 21, 2023 **(ALKA SARIN)**
tripti **JUDGE**

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO