IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

X-OBJC-31-CII-1999 In/and
FAO No. 478 of 1998
Date of decision: 14.10.2015

New India Assurance Company Limited

... Appellant

versus

Rama Wati Devi

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. V. Ramswaroop, Advocate for the appellant.

Mr. J.P.S. Ghuman, Advocate for the respondent.

K.Kannan, J.

FAO No. 78 of 1998

The appeal by the Insurance Company is on the issue of liability. The Tribunal found that on the basis of a letter written under Ex. R2 by one Satish Kaushal, it was evident that the driver had a valid driving licence. However, on an investigation done, it was found that it was fake. The driver did not come present at the trial to produce the driving licence. The Tribunal still made the Insurance Company liable. The Insurance Company ought to have been provided with the right of recovery against the owner and the driver in terms of the law laid down by the Supreme Court in National Insurance Company Limited Vs. Swaran Singh and others, 2004 3 SCC 297. The award is modified to make the insurer liable and given the benefit of recovery against the owner and the driver. The appeal of the insurer is allowed to the above extent.

X-OBJC-31-CII-1999

The issue for consideration in the cross-objection would be only to examine the justification for a plea for enhancement. The deceased was 26 years of age and was said to be a semi-skilled worker working as a gas cutter for an industrial unit. The claimants were widow and 3 minor children. Although it was stated that the deceased was earning between Rs. 2,500/- to 3,000/-, the Court took the income at Rs. 500/- and assessed the compensation at Rs. 1, 92,000/- as payable. I re-assess the compensation on the increased scales which are now brought by taking note of the decisions taken in Sarla Verma Vs. Delhi Transport Corporation, 2009 (3) RCR (Civil) 77 for a provision of prospect of increase and for assessing the multiplier and the deduction to be made and apply the decision in Rajesh and others Vs. Rajbir Singh and others, 2013 (9) SCC 54 for consideration of the higher sum for loss of love and affection and for loss of consortium. Considering that the death had taken place in the year 1996, the assessment will also factor a component of interest. I will scale down the loss of consortium and for loss of love and affection for each of the children and tabulate the claim as under:

Fatal	Date of accident	22.02.1996	
Age			
Occupation			
Claimants	Widow,3		

	Children		
SR. No.	**Heads of claim**	**Tribunal Amount (Rs.)**	**High Court Amount (Rs.)**
1	Income	1,500	1,500
2.	Add, % of increase, 30%/50%		2,250
3.	Deduction, 1/2, 1/3, 1/4,		1687.50
4.	Multiplicand		20,250/-
5.	Multiplier		17
6.	Loss of dependence		3, 44,250/-
7.	Medical Expenses		
8.	Loss of Consortium		50,000
9.	Loss of love and affection		1,50,000
10.	Loss to estate		2,500
11.	Funeral Expenses		5,000
	Total	1,92,000	5,51,750/-

Additional compensation shall also attract interest @ 7.5% from the date of the petition till the date of payment. The liability shall be on the insurer. The amount shall be distributed equally amongst the widow and the children. The cross appeal is allowed to the above extent.

(K.KANNAN)
JUDGE

14.10.2015

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