IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1) FAO No. 2167 of 2012

Manju and others

.....Appellants

Versus

Jagbir and others

.....Respondents

2) FAO No. 7014 of 2011

Reliance General Insurance Co. Ltd.

.....Appellant

Versus

Manju and others

.....Respondents

Date of decision: - 10.04.2015

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1. **Whether Reporters of local papers may be allowed to see the judgment? Yes**
2. **To be referred to the Reporters or not?**
3. **Whether the judgment should be reported in the Digest? Yes**

Present: Mr. A.K. Jindal, Advocate
for the appellants in FAO No.2167 of 2012.

Mr. Arun Sharma, Advocate
for Mr. Tajender S. Joshi, Advocate,
for appellant-Insurance Company in FAO No.7014 of 2011.

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SHEKHER DHAWAN, J (Oral).

These two separate appeals i.e. one filed by claimants and other filed by Reliance General Insurance Company. Claimants-appellants had taken the plea that the Tribunal has not awarded just compensation in this case, whereas appellant-Insurance Company taken the plea that the Tribunal has awarded the compensation on higher side, taking the income of deceased Satpal to be ₹6,000/- per month, whereas he was working as driver only.

2. Taking the case from undisputed facts, Satpal (since deceased) died in motor vehicle accident, which took place on the night of 2/3.09.2009 and Satpal was driving a canter bearing registration No.HR-66-3995 in carrying six buffaloes. Tinku was working as a conductor and the said canter met with an accident, which resulted into death of Satpal. The matter was reported to the police. Respondents contested the claim petition and the Tribunal awarded compensation of ₹9,38,000/- on account of death of Satpal and a sum of ₹1,64,564 on account of injuries caused to Tinku. However, Tinku has not preferred any appeal against the awarded amount.

3. At the time of arguments, Mr. A.K. Jindal, Advocate, learned counsel for the appellants took the plea that the Tribunal has not awarded just compensation because there were six claimants in the claim petition representing Satpal, including widow of Satpal, minor children and parents. But the Tribunal deducted 1/4th on account of his self dependency, whereas it should have been 1/6th. Enhancement has also been sought on the ground that no amount was awarded on account of future prospects of earnings though Satpal died at the age of 26 years. A sum of ₹5,000/- has been awarded on account of funeral expenses and

another sum of ₹5,000/- on account of loss of Estate and ₹10,000/- on account of loss of consortium though one of the claimant is widow. So, the amount of compensation be enhanced suitably.

4. Mr. Arun Sharma, Advocate, learned counsel for appellant in FAO No.7014 of 2011, took the plea that income of Satpal has been taken on the higher side. In the year 2009, the driver on private canter was not getting ₹6,000/- per month and the amount of salary has been taken on the higher side. So, the amount of compensation be reduced accordingly.

5. Having considered the rival contentions raised by learned counsel for both the parties, this Court is of the considered view that the income of Satpal has been rightly taken to be ₹6,000/-, as the Tribunal returned the findings on the basis of statement of PW5 Rajesh Kumar with whom Satpal was working as a driver on canter. Otherwise also, the driver on a canter had been reasonably earning ₹6,000/- in the year 2009 as well. So, there are no grounds for reducing the amount of compensation awarded by the Tribunal, taking the income to be ₹6,000/- in any case.

6. Now coming to the point of enhancement to be ordered, if any. The Tribunal has rightly deducted 1/4th on account of self dependency, as claimant in this case are six in numbers. However, the Tribunal has not awarded any amount on account of future prospects though the age of the deceased was 26 years and claimants are entitled to enhancement @ 50% as per ratio of judgment by Hon'ble Apex Court in case ***Rajesh and others vs. Rajbir Singh and others,*** *2013(9) SCC 54,*

That way, the monthly income of the deceased comes to ₹9,000/- (₹6,000 + ₹3,000) and annual loss of income comes to ₹1,08,000/- (₹9,000 x 12). Out of that, 1/4th is to be deducted and have deduction of ₹27,000/- and loss of income comes to ₹81,000/- to be paid. However, the Tribunal has correctly applied multiplier of 17 and that way the amount of compensation comes to ₹13,77,000/- (₹81000 x 17). Apart from that, the claimants are entitled to receive a sum of ₹25,000/- on account of funeral expenses and ₹1,00,000/- on account of loss of consortium, as one of the claimant is widow. The total amount comes to ₹15,02,000/- (₹13,77,000 + ₹1,00,000/- + ₹25,000/-). The total awarded amount of compensation in this case shall be ₹15,02,000/- against the already awarded amount of ₹9,38,000/-. The enhanced amount of compensation would be payable by respondent-Insurance Company, within a period of one month from today, failing which, the claimants shall be entitled to receive interest @ 7.5% per annum. Accordingly, FAO No.7014 of 2011 filed by appellant-Reliance General Insurance Company stands dismissed and FAO No.2167 of 2012 filed by appellants Manju and others is partly accepted. However, the remaining conditions regarding payment of interest and disbursal of amount shall remain unaltered.

(SHEKHER DHAWAN)
JUDGE

April 10, 2015
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