IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4035 of 2012 (O&M)
Date of Decision:14.10.2015

Reliance General Insurance Company Ltd.

....Appellant

Versus

Smt. Pooja and others

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Argued by: Ms. Kavya Jariyal, Advocate for
Mr. T.K. Joshi, Advocate for the appellant.

Mr. Jitender Sehrawat, Advocate for
Mr. N.S. Shekhawat, Advocate for respondents No.1 to 4.

Mr. A.K. Gahlawat, Advocate for respondents No.5 & 6.

NAVITA SINGH, J.

1. This appeal is preferred by Insurance Company against the award dated 10.4.2012 passed by Motor Accidents Claims Tribunal, Narnual, whereby respondents No.1 to 4 were awarded compensation to the tune of Rs.31,83,830/- on account of death of Kuldeep alias Tilu.

2. Counsel for the appellant argued on the short point that Rule 5 (1) of Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 would be very relevant. The said rule so far would be applicable, reads as under: -

> "5 (1) on the death of any Government Employee, the family of the employee would continue to receive as financial assistance a sum equal to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim.
>
> (a) for a period of fifteen years from the date of death of the employee, if the employee at the time of his death had not attained the age of thirty five years;
>
> (b) for a period of twelve years or till the date the employee would have retired from the Government service on attaining the age of superannuation whichever is less, if the employee at the time of his death, has attained the age of thirty five years, but have not attained the age of forty eight years."

3. It was submitted that since the family of the deceased was to receive as financial assistance, a sum equal to the pay and other allowances drawn by the deceased for the period mentioned in the rule, the Tribunal should not have compensated the claimants on that count. It was further submitted that the Tribunal, after calculating the amount on the basis of the income, observed that the difference of Rs.23,35,200/- between the total compensation i.e. on the basis of income and conventional heads and the amount of Rs.8,48,630/-, would be the compensation awarded for loss of love and affection. Counsel for the appellant relied on judgment passed in FAO No.3432 of 2009 along with connected cases.

4. It is not understandable as to how such a huge amount of more than Rs.23,00,000/- was given for loss of love and affection. In para 14 of the award, it was observed that the amount that would be provided by Government of Haryana to the claimants would be Rs.30,13,200/-. The difference on the basis of income, therefore, comes to Rs.8,48,630/-. The rest of the sum was given for love and affection. This was apparently done in view of the difference of multiplier because the family was to get the amount for 15 years from the State.

5. Counsel on the other side contended that the amount was rationally granted and the amount was not required to be reduced on any count. This argument, however, is not convincing because the claimants concerned could not get double benefit. It is, therefore, held that an amount of Rs.8,48,630/- would be payable to the claimants with interest while out of the remaining amount of Rs.23,35,200/-, an amount of Rs.1,00,000/- would be given to both the parents for loss of love and affection. An amount of Rs.1,00,000/- would be given to the widow for loss of consortium. The amount of Rs.20,000/- awarded in para 15 would be taken to be for funeral expenses.

6. The total amount which the claimants are entitled to receive would, therefore, be Rs.10,68,630/- in all. The award qua the remaining amount besides the said amount of Rs.10,68,630/- is set aside.

7. The appeal is disposed of in the above terms.

(NAVITA SINGH)
JUDGE

14.10.2015
Ishwar

Whether to be referred to reporter: Yes