IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

F.A.O. No. 1531 of 2013
Date of decision : October 12, 2015.

ICICI Lombard General Insurance Co. Ltd.
... Appellant

vs.

Jaituni and others
... Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Mrigank Sharma, Advocate
for the appellant.

Mr. N.P. Singh, Advocate
for respondents no.1 to 5.

Surinder Gupta, J

Heard.

This is an appeal filed by ICICI Lombard General Insurance Company Limited against the award dated 20.12.2012 passed by Motor Accident Claims Tribunal, Nuh (later referred as the Tribunal) whereby compensation of ₹9,80,000/- was allowed for the death of Mehmood (later referred to as the deceased), aged 28 years, in a motor accident with truck bearing no.UP-78-AN-8184. The accident had taken place on 8.11.2007 in the area near Kolesh Adda Tulsi Thana Civil Lines, District Itawa.

The detailed facts of the case are not being discussed as the only dispute on this case is qua the quantum of compensation allowed by the Tribunal.

The Tribunal has calculated the amount of compensation awarded in this case as follows :-

Sr. No.	***Head***	***Amount***
(i)	Income of the deceased	₹4000/- per month
(ii)	30% of (i) above to be added as future prospects	(₹4000+₹1200) = ₹5200/- per month
(iii)	1/10th of (ii) deducted as personal expenses of the deceased	(₹5200-₹520/-) = ₹4680 per month.
(iv)	Compensation after applying multiplier of 17	(₹4680x12x17)= ₹9,54,720/-

Sr. No.	Head	Amount
(v)	Transportation charges	₹5,000/-
(vi)	Funeral expenses	₹10,000/-
(vii)	Loss of consortium	₹10,000/-
	Total	**₹9,80,000/-**

Learned counsel for appellant has confined his arguments only to the extent that the Tribunal has wrongly deducted 1/10th of income of the deceased towards personal expenses while as per observations in the case of ***Sarla Verma and Ors. vs. Delhi Transport Corporation and Another,*** *(2009) 6 SCC 121* it should be 1/5th.

Learned counsel for respondent has argued that the Tribunal has added 30% of increase in the income of the deceased towards future prospects while as per observations in the cease of ***Rajesh and others vs. Rajbir and others,*** *(2013) 9 SCC 54* it should be 50%. The amount of compensation allowed towards funeral expenses and loss of consortium is also on the lower side and nothing has been awarded by the Tribunal towards loss of love and affection and care and guidance of the minor. Even if the deduction towards personal expenses of deceased be reduced from 1/10th to 1/5th the amount of compensation will not get reduced.

Replying the submissions of learned counsel for respondent, learned counsel for appellant has argued that the appeal has been filed by the Insurance Company and the claimants are not in appeal, as such, submissions by learned counsel for respondent cannot be looked into.

As per observations in para 14 of judgment in ***Sarla Verma and Ors.*** case *(supra)* where number of dependents on the deceased are more than 6, 1/5th of his income is to be deducted towards his personal expenses. The Tribunal has wrongly applied the deduction as 1/10th.

In a claim petition under Section 166 of Motor Vehicle Act, the claimants are to be allowed just compensation as per provisions of Section 168 of the Act. By applying the deduction of 1/5th towards personal expenses of the deceased, the amount of dependency as calculated by the Tribunal comes down from ₹9,54,720/- to ₹8,48,640/-. Though the claimants are not in appeal, still this fact is to be taken care while calculating the just amount of compensation that the Tribunal has allowed ₹10,000/- towards funeral expenses and ₹10,000/- towards loss of consortium. As per observations in the case of ***Rajesh and others*** *(supra)* this amount should be ₹25,000/- and ₹1,00,000/-. The claimants were entitled to addition of 50% in case of deceased towards future prospects as per observations in the case of ***Rajesh Kumar and others*** *(supra).* No compensation was allowed by the Tribunal towards loss of love and affection and care and guidance for the minor children.

Keeping in view the above facts, even after enhancing the amount of personal expenses of the deceased, I am of the considered opinion that the amount of compensation allowed by the Tribunal do not require to be altered. This court can certainly take note of the fact that the Tribunal has allowed less compensation on conventional heads like funeral expenses, loss of consortium and has not allowed compensation for loss of love, affection, care and guidance to the minor children. The compensation on these heads if calculated as per observations of Apex Court in case ***Rajesh Kumar and others*** *(supra),* it would make good the amount of dependency reduced due to increase in amount of personal expenses.

In view of the above discussions, I find no merit in this appeal and the same is dismissed.

October 12, 2015 **(Surinder Gupta)**
deepak **Judge**