IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. FAO No.2834 of 2013 (O&M)

Universal Sompo General Insurance Co. Ltd.

… Appellant

Versus

Satya Parkash and others

… Respondents

2. FAO No.3938 of 2013 (O&M)

Sunita and others

… Appellants

Versus

Satya Parkash and others

… Respondents

Date of decision: 11th February, 2015

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Chandandeep Singh, Advocate
for the Insurer/
Appellant in FAO No.2834 of 2013;
Respondent No.3 in FAO No.3938 of 2013.

Mr. Ram Bilas Gupta, Advocate
for the claimants/
Respondents No.3 to 8 in FAO No.2834 of 2013;
Appellants in FAO No.3938 of 2013.

Respondent No.1 in both appeals – ex parte;

Mr. V.K. Sachdeva, Advocate
for respondent No.2 in both appeals.

FATEH DEEP SINGH, J.

These two appeals, one by the Insurer and the other by the claimants are directed against the same very Award dated

19.03.2013 of learned Motor Accident Claims Tribunal, Faridabad pertaining to the compensation awarded in respect of the death of deceased Lal Jeet.

The factual aspect leading to this death, when on 27.12.2011 the deceased was going on his motorcycle bearing registration No.HR-51Q-8799 and was hit by truck-trolla bearing No.HR-55J-9104 is duly admitted and even so in the written reply of the respondents. The consequent findings on the basis of the evidence on issue No.1 holding the driver of the truck-trolla respondent Satya Parkash to be responsible, have attained finality as neither they have been assailed by any of these respondents nor any evidence has been led on that score to rebut it.

In the light of the arguments advanced by Mr.Chandandeep Singh, Advocate on behalf of the Insurer, Mr. Ram Bilas Gupta, Advocate for the claimants and Mr. V.K. Sachdeva, Advocate representing the owner of the offending vehicle and on perusal of the records, it is not in any manner put to question that the deceased was aged around 38 years which is reflected in the post-mortem report Ex.P1 and has also been relied upon by the Tribunal. The lone contention that is sought to be raised in the arguments of the two sides is the quantum of compensation. Mr.Chandandeep Singh representing the Insurer has sought to base his arguments on the 50% enhancement on future prospects given by the Tribunal, whereas Mr.Ram Bilas Gupta representing the claimants has sought to decry the meagerness of this compensation.

Admittedly, the deceased was a machinist though not qualified but falls within the category of skilled worker and which is well demonstrated by his salary slips Ex.P5 and Ex.P6 pertaining to M/s Mahindra Products which show that he was earning ₹16,500 per month under various heads of salary/benefits which is the gross salary. The claim that is sought to be laid forth by the claimants that he was also working as a part time machinist with another concern M/s Rajeev Engineering earning ₹7,000 per month on the basis of certificate of salary Ex.P8 certainly does not impress this Court. What is sought to be adduced is undue stress by the claimants with an eye on the hefty compensation. It needs to be reiterated here that compensation is neither a booty nor a pittance and is only a legitimate, legal right of the claimants and therefore, compensation ought to be fair and just. Thus, claim of the claimants that deceased was working on part time with M/s Rajeev Engineering needs to be outrightly rejected.

The salary depicted through Ex.P5 and Ex.P6 which has been brought about in the statement of PW3 Bijay Kumar Mishra, Accountant of the employer, is only a gross salary and therefore, in view of the ratio laid down in **'Sarla Verma & others v. Delhi Transport Corporation & another'** reported in **2009(6) SCC 121** so heavily relied upon by learned counsel for the claimants prescribes deduction of income tax and after such a deduction, it can be safely assumed that the deceased must be getting a carry home salary of ₹14,000 per month which is a reasonable amount in the light of nature of the job and socio-economic condition of the deceased who was proven to be working in an industrial hub. In view of the number of family members the deceased must be contributing ₹10,400 per month towards running of the household and therefore, annual dependency comes to ₹1,24,800. In the light of age of the deceased, multiplier of 15 as applied by the Tribunal needs to be considered and therefore, compensation comes to ₹18,72,000. The learned Tribunal, as is reflected from the impugned findings, has wrongly scaled down earnings of the deceased to ₹5,000 per month barely on the premise and conjecture which is not sustainable in view of the documentary evidence led on the record.

The claimants who are the widow, minor children and aged parents have lost their bread earner and they also need to be adequately compensated for loss of love and affection. Besides, they must have spent money on the last rites and ceremonies and the wife has lost her life companion and ought to be compensated for loss of consortium and under all these conventional heads though the learned Tribunal has not granted any significant amount as it is only to the tune of ₹30,000, is certainly on the lower side and therefore, a sum of ₹1,50,000 is awarded for the same. Therefore, total compensation comes to ₹20,22,000 (rupees twenty lacs twenty two thousand).

Since the question of 50% enhancement for future prospects as is sought to be assailed by the claimants though has been controverted on behalf of the Insurer on the ground that the same is subject matter of decision which is pending before the Hon'ble

Apex Court, and therefore, not much solace at this juncture can be derived on that score by either of the parties.

Besides this, the claimants are also entitled to interest @7.5% p.a. on the enhanced amount from the date of filing of the appeal till realization. Interim compensation paid, if any, shall be adjusted. If any of the minor claimants has attained the age of majority, his/her share shall not be deposited by way of FDR. Rest of the stipulations laid down by the Tribunal need not be disturbed.

In the light of these observations, finding the appeal of the Insurer (FAO No.2834 of 2013) to be without any merit stands dismissed; whereas that of the claimants (FAO No.3938 of 2013) stands allowed modifying the impugned Award in those terms.

(FATEH DEEP SINGH)
JUDGE

February 11, 2015
rps