IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 301 of 2013 (O&M)
Date of decision : 20.01.2015

ICICI Lombard Co. Ltd.

......Appellant

Versus

Nirmala and others

...Respondents

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

Present: Mr. Rajneesh Malhotra, Advocate
for the appellant

Mr. Atul Yadav, Advocate
for respondents No. 1 to 3

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ANITA CHAUDHRY, J.

This appeal has been filed by the Insurance Company challenging the award dated 06.10.2012 passed by Motor Accident Claims Tribunal, Nuh.

The submission made on behalf o the appellant is that the Tribunal had made a deduction of 1/10th towards personal expenses where the family members were three and the deduction should have been 1/3rd. The second submission was that the Tribunal had added 30% towards future prospects when the deceased was 53 years old and there should be no addition as per ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) RCR(Civil) 77***.

The submission on the other hand was that the Tribunal had taken the minimum wages as the income for the deceased and, therefore, in the cases of fixed wages an addition in the income has to be made and in ***Rajesh and others vs. Rajbir Singh and others, 2013 (3) RCR(Civil) 170,*** the Apex Court had held that for the age group of 50 to 60 years, an addition of 15% should be made. It was urged that though there is no appeal from their side but some amount should have been added for loss of consortium and funeral expenses.

Responding to the arguments the submission made on behalf of the appellant was that since there is no appeal by the claimants, there can be no addition in the award.

The claimants had pleaded that Dull Chand was 50 years old and was driver and an agriculturist. The claimants failed to lead any evidence with respect to his income and his income was taken as ₹ 4000/- per month which were the minimum wages of an unskilled labourer. There is no evidence to change this. The identity card issued by the Election Commission had recorded the age of the deceased at 53 years, therefore, the Tribunal had applied the multiplier of 11 and rightly so. So far as the deduction is concerned there were only three claimants and the deduction could not have been $1/10^{th}$. Considering the number of family members, I would make a deduction of $1/4^{th}$ and give 15% addition in the income, since the deceased was in the age group of 50-60 years as per ***Rajesh's case (supra)***. Making the calculations now and after taking the income to be ₹ 4000/- per month and adding 15% towards future prospects the income would come to ₹ 4600/-. Making a deduction of $1/4^{th}$ towards personal expenses the income would come to

₹ 3450/-. The annual contribution would come to ₹ 41,400/-. Applying the multiplier of 11, the compensation would come to ₹ 4,55,400/-. The amount allowed by the Tribunal for transportation and loss of consortium when added makes the total compensation payable to be ₹ 4,80,400/-. There was stay of recovery beyond ₹ 4,75,000/-, the balance amount if not paid within two months the appellants would be entitled to interest @ 6% from the date of filing of the appeal till realization.

The appeal is disposed of with the above modification.

20.01.2015 **(ANITA CHAUDHRY)**
reena **JUDGE**