IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4624-2013 (O&M)
Date of decision: 6.10.2015

Shri Ram General Insurance Company Ltd.
...Appellant

Versus

Smt.Jubaida and others
...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Arun Sharma, Advocate for
Mr.TK Joshi, Advocate for the appellant

Mr.Ashish Gupta, Advocate
for respondents No.1 to 5- Cross objectors

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SNEH PRASHAR, J.

FAO-4624-2013 and XOBJC-86-CII-2015

The present appeal has been filed by the Insurance company assailing the award dated 2.2.2013 passed by learned Motor Accident Claims Tribunal, Nuh (for short 'the Tribunal') vide which, a compensation of Rs.7,62,200/- alongwith interest at the rate of 6% per annum from the date of filing of the claim petition till its realisation was awarded to claimants-respondents No.1 to 5 and the appellant-Insurance Company was held liable for payment of the same.

In appeal, the claimants-respondents No.1 to 5 have filed cross-objections seeking enhancement of the compensation.

The submissions made by learned counsel for the appellant-Insurance Company as well as counsel for the claimants-respondents No.1 to 5/ cross objectors have been heard and record perused.

The only argument raised by learned counsel for the appellant-Insurance Company is that increase to the extent of 30% in the income of the deceased on the ground of future prospects had been wrongly done by the Tribunal as the deceased was not in a permanent employment.

Learned counsel representing the claimants-respondents No.1 to 5 submits that the amount awarded towards loss of consortium and funeral expenses i.e. Rs.10,000/- under each head is on the lower side. No amount has been awarded towards loss of love, care and guidance to the children.

There is no denial of the accidental death of Gafoor alias Sagir alias Saggar, husband of respondent No.1 and father of respondents No. 2 to 5. He was 42 years of age at the time of death. In the absence of any substantive proof of income, learned Tribunal had assessed his income as Rs.4500/- per month treating him to be an unskilled labourer. Applying the multiplier of 14; deducting 1/4th

of the income towards personal expenses of the deceased, and by adding 30% towards future prospects, learned Tribunal awarded a sum of Rs.7,37,184/- on account of loss of dependency and also awarded a sum of Rs.15,000/- towards transportation of dead body and funeral expenses and Rs.10,000/- on account of loss of consortium.

There appears no force in the argument of learned counsel for the appellant that addition of 30% in the income towards future prospects should not have been done as the deceased was not in a permanent employment. In **Rajesh and others vs. Rajbir Singh and others 2013 (9) SCC 54**, the Hon'ble Supreme Court has held as under:

> "11. Since, the Court in **Santosh Devi's case (supra)** actually intended to follow the principle in the case of salaried persons as laid in **Sarla Verma's case (supra)** and to make it applicable also to the self employed and person on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self employed or persons of fixed wages, in case, the deceased victim was below 40 years, there

> must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years."

In the present case, the deceased had five dependents, a wife and four children. He was the sole bread earner of the family. Keeping in view the peculiar facts and circumstances of the case and ratio of **Rajesh and others' case (supra)**, it is held that addition of 30% increase to the income of the deceased was rightly allowed by learned Tribunal.

As regards the amount of compensation awarded under other heads, the same is enhanced/ allowed as under:-

Sr.	***Heads***	***From***	***To***
1	Funeral expenses	Rs.10,000/-	Rs.25,000/-
2	Loss of consortium payable to the wife	Rs.10,000/-	Rs.One lac
3.	Loss of love, care and guidance to the children in equal share		Rs.40,000/-

Consequent to the above decision, the appeal filed by the Insurance Company is hereby dismissed, whereas the cross-objections filed by the claimants-respondents No. 1 to 5 are partly allowed. The enhanced compensation of Rs.1,45,000/- shall be paid to the claimants-respondents No.1 to 5 in the manner indicated above, within 45 days from the date of receipt of the certified copy of this order, failing which, the same shall carry interest @ 7.5% per annum from the date of filing of the cross-objections till its realisation.

6.10.2015 **(SNEH PRASHAR)**
gsv **JUDGE**