IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3327 OF 2015 (O&M)
DATE OF DECISION : 24th AUGUST, 2015

Shri Ram General Insurance Company Ltd.

…. Appellant

Versus

Geeta & others

…. Respondents

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

* * * *

Present : Mr. Rajbir Singh, Advocate for the appellant.

* * * *

SURINDER GUPTA, J. (ORAL)

1. This is appeal by Shri Ram General Insurance Company Limited (hereinafter referred as Insurance Company) against the award dated 17.03.2015 passed by the Motor Accident Claims Tribunal, SAS Nagar (Mohali) (hereinafter referred as the Tribunal) in the claim petition filed by respondent No.1 to 5 under Section 166 of the Motor Vehicles Act, 1988 for the death of Nitin Kumar husband of respondent No.1, father of respondents No.2 and 3, son of respondent No.4 and brother of respondent No.5. The Tribunal allowed the compensation tabulated as follows:

Date of accident		31.01.2013
Age of the deceased Nitin Kumar		
Claimants : Geeta Devi etc. (5)		
Sr. No.	**Heads of claim**	
1.	Monthly Income	Rs.6,000/-
2.	Annual Income	Rs.6,000X12 = Rs.72,000/-
3.	Addition of 50% on Rs. 72,000/- on account of future prospects	Rs.36,000/-

4.	Total income of deceased	Rs.72,000/-+ Rs.36,000/- = Rs.1,08,000/-
5.	Personal and living expenses (1/4)	Rs.1,08,000/- $\frac{1}{4}$ = Rs.27,000/-
6.	Income after deduction of personal and living expenses	Rs.1,08,000/- - Rs.27,000/-= Rs.81,000/-
7.	Multiplier	17 (Seventeen)
8.	Amount of compensation	Rs.81,000/- X 17 = Rs.13,77,000/-
9.	Loss of consortium	Rs.1,00,000/-
10.	Loss of care and guidance to minor claimants	Rs.1,00,000/-
11.	Funeral Charges	Rs.25,000/-
12.	**Grand Total**	Rs.16,02,000/-

2. Learned counsel for the appellant has argued that the Tribunal has made deduction of ¼th out of the income of deceased towards his personal expenses while it should have been 1/3rd as he was having only two children and wife to look after. Father is not the dependant on the son and claimant Sonia, sister of deceased was minor and dependant on the father during his lifetime instead of her brother.

3. As the accident and the issue of negligence of driver of the offending vehicle is not in issue the facts of the case is not being discussed in detail. In the case of ***Sarla Verma & others vs. Delhi Transport Corporation & another,*** reported as ***2009 ACJ 1298 (SC)***, it was observed that where the number of dependants of the family members is 4 to 6 deduction for personal and living expenses of the deceased should be 1/4th. Without going into controversy as to whether the father was dependant on the deceased or not, he had left four other dependants i.e. his wife, two children and minor sister, as such, the Tribunal has rightly applied the deduction of 1/4th out of the income of the deceased towards his personal

expenses. Even during the lifetime of father, an earning brother has to take care of his minor sister, her education and also contribute towards her marriage expenses, as such minor sister of deceased was dependant on him. The argument of learned counsel for the appellant that the Tribunal has committed grave error while applying the deduction of $1/4^{th}$ of income of deceased towards his personal expenses, as such has no merit and is discarded.

4. No other point has been argued by learned counsel for the appellant.

5. In view of the above this appeal has no merit and the same is accordingly dismissed.

24th August, 2015 (SURINDER GUPTA)
'raj' JUDGE