IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4997 of 2015 (O&M)
Date of Decision: August 03, 2015

New India Assurance Company Limited .... Appellant

vs.

Smt. Usha and others .... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Vinod Gupta, Advocate for the appellant.

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

Kuldip Singh J.(Oral)

The Insurance Company has filed this appeal against the Award dated 30.05.2015 passed by the Motor Accident Claims Tribunal, Bhiwani (in short 'the Tribunal').

In this case, Parveen Kumar, who was 32 years old, died in a motor vehicular accident, which occurred on 31.01.2013. The Tribunal assessed the income of the deceased equivalent to daily wager, which was ₹6,000/- per month in the year 2013. 50% of the income was added for future prospects. 1/4th was deducted as personal expenses and after applying the multiplier of 16, the dependancy of the claimants was calculated @ ₹12,96,000/-. The compensation awarded by the Tribunal under different heads is given below:

1.	Loss of dependancy	₹12,96,000/-

2.	Loss of consortium to spouse	Nil
3.	Loss of love and affection to minor children	₹20,000/- (₹10,000/- each)
4.	Funeral Expenses	₹25,000/-
5.	Loss of estate	₹5,000/-
	Total	**₹13,46,000/-**

Learned counsel for the Insurance Company has argued that 1/4th was wrongly deducted as personal expenses. In this case, as the claimants are three in numbers, therefore, 1/3rd should have been deducted as personal expenses. Accordingly, the amount of dependancy comes to ₹11,52,000/-. In this way, ₹1,44,000/- have been awarded in excess by the Tribunal on account of wrong deduction for personal expenses.

However, a perusal of the calculation shows that there are errors favouring the Insurance Company also.

The Tribunal did not award any compensation for loss of consortium to the young widow. For loss of love and affection to the minor children, only ₹20,000/- (₹10,000/- each) have been awarded. Nothing has been awarded for loss of love and affection to the mother. For loss of estate, only ₹5,000/- have been awarded.

I am of the view that if the authorities of ***"Smt. Sarla Verma and others vs Delhi Transport Corporation and another" (2009) 6 SCC 121*** and ***"Rajesh vs. Rajbir Singh 2013 (9) SCC, 54*** are taken into consideration, ₹1,00,000/- for loss of consortium to the widow, ₹1,00,000/- for loss of love and affection to the minor children,

₹1,00,000/- to the mother for loss of love and affection have to be allowed and in place of ₹5,000/-, minimum ₹25,000/- have to be allowed for loss of estate. By calculating the same, the increase in compensation will come to ₹3,00,000/-. In this way, despite error in making wrong deduction for personal expenses, the Insurance Company has already been benefitted by granting ₹3,00,000/- less, which should have been awarded to the claimants under the other heads. The net result is that the fair compensation favouring the Insurance Company has been awarded.

Therefore, no interference in the impugned order is called for.

Accordingly, the present appeal stands dismissed.

(KULDIP SINGH)
JUDGE

August 03, 2015
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