IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO No.5366 of 2015 (O&M)
Date of Decision: September 19, 2015.

Reliance General Insurance Company Limited

..........APPELLANT(s).

VERSUS

Sanjita Sharma and others

........RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Raj Kumar Bishamboo, Advocate
for the appellant (s).

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SURINDER GUPTA, J.

This appeal has been filed by Reliance General Insurance Company Limited against the award dated 13.05.2015 passed by Motor Accident Claims Tribunal, Rohtak (later referred to be as the Tribunal), whereby the claimants/respondents no.1 to 3 were allowed compensation of ₹15,64,420/- on account of death of Ashok Kumar (later referred to be as the deceased) husband of claimant no.1 and father of claimants no.2 and 3 in a motor accident with car bearing registration no. DL-2CAG-3311 (later referred to be as the offending vehicle).

2. The deceased was 42 years of age. He was posted as Head Constable in Haryana Police and was getting ₹22,923/- per month as salary. While computing the amount of compensation on adding 30% towards future prospects and making deduction of 10% towards income tax, 1/3rd of his income was deducted towards his living and personal expenses and on applying multiplier of 14, the amount of compensation was calculated as ₹30,03,840/-. The claimants were also allowed ₹1 lac for loss of consortium

and ₹25,000/- towards funeral expenses. The deceased and driver of the offending vehicle were found to be equally liable for the accident in ratio of 50:50.

3. Learned counsel for the appellant has assailed the award only on the ground that the family of the deceased, as per the 'Haryana Compassionate Assistance to the Dependants of Deceased Government Employees Rules, 2006' (hereinafter referred to as 'Rules of 2006') framed by the State of Haryana, will get full last salary of the deceased for a number of years (which is determined by the age of the deceased government employee) followed by family pension. The deceased in this case was 40 years of age and under the above Rules of 2006, family of the deceased was entitled to compassionate financial assistance for a period of 12 years equal to pay and other allowances, the deceased was drawing at the time of his death. He has argued that though the Division Bench of this Court in case of ***Reliance General Insurance Company Limited Vs. Purnima and others 2013(2) PLR 306*** has upheld the view taken by Single Bench in case of ***Oriental Insurance Company Limited Vs. Saroj Devi 2012(1) PLR 761*** that the insurance company cannot get their liability excused or reduced because the deceased's family is also entitled to financial assistance from an alternative source which has accrued due to death of the employee and not because he died in a motor vehicle accident but in appeal in a number of cases in which this judgment was relied, Hon'ble Apex Court has either stayed the payment of entire amount of compensation or the operation of judgments.

4. As no other point has been argued while challenging the award passed by the Tribunal, the detailed facts of the case are not being discussed.

5. Before proceeding further, it will be relevant to take a note of the fact that it has been fairly conceded that the judgment passed in case of

Reliance General Insurance Company Limited Vs. Purnima and others (supra) has not been stayed by the Hon'ble Apex Court. In appeal against other judgments, the only point involved was not the benefit allowed under Rules of 2006 to the dependants of deceased government employees but there were other matters also involved.

6. The only question which arises for consideration in this appeal is as to whether the Tribunal had to take into account the benefit allowed to the deceased under Rules of 2006.

7. Rule 2 of the above Rules explains the object for which these Rules were formulated and reads as follows:-

> "2. The object of the rule is to assist the family of a deceased/missing Government employee of Group C and D category, in tiding over the emergent situation, resulting from the loss of bread-earner while in regular service by giving financial assistance."

8. A bare perusal of the above Rule make it clear that these Rules are applicable to all the employees in the State of Haryana belonging to group C and D category, who die while serving the State. These Rules have not been specifically framed for the employees who have died in motor accidents. In case of ***Oriental Insurance Company Limited Vs. Saroj Devi (supra),*** a Co-ordinate Bench of this Court has observed that the financial assistance under Rules of 2006 and the compensation assessed under the relevant provisions of Motor Vehicles Act are mutually exclusive and have no reciprocal bearing on the quantum as arrived under the respective heads. There was contrary view in the case of ***New India Assurance Company Limited Vs. Smt. Santosh and others 2010(4) PLR 780***, wherein it was held that compensation received from the Government under Rules of 2006 would be deducted from the total compensation determined by the Tribunal in the

motor accident case.

9. In case of ***Reliance General Insurance Company Limited Vs. Purnima and others (supra)***, Division Bench of this Court delved on the question as follows:-

> "Whether insurance company (or for that matter owner of the vehicle) can seek deduction of the said financial assistance while paying compensation to the claimants under the provisions of the Motor Vehicles Act."

10. After taking note of the provisions of Rules 2, 3 and 5 of Rules of 2006, the Division Bench observed in para 12 as follows:-

> "12. Once we take note of the character and nature of the financial assistance scheme in the form of aforesaid rules, as above, other things follow flawlessly and automatically. In its discourse by the learned single Judge in ***Smt. Santosh (supra)***, though the principles of law based on tort are discussed with lot of erudition, the error is committed in applying those principles to the scheme of the things at hand. In the first place, it needs to be understood that the scheme of financial assistance contained in statutory rules of 2006, is a service benefit which accrues to the dependents of the deceased in the domain of service matter/benefit and is given as a result of the services rendered by the deceased employee. Consequently, it is in the nature of pension given as per the provisions of the Pension/Family Pension Scheme, recognizing the fact that pension is normally given for meritorious, long and faithful service by the employee. There cannot be an *ex facie* adjustment of such a service benefit in the nature of family pension, which accrues to an employee or his dependent(s), in case of his death. If this is accepted, then in every case where family pension is given or other terminal benefits in the nature of provident fund, gratuity, etc. are given to the dependents of the deceased employee

> will have to be adjusted. That would lead to preposterous results. It appears that the object behind formulating the scheme was not only to assist the family of the deceased to tide over the emergent situation, but was for the reason to give benefit in those cases as well where service rendered is not sufficient (which is normally 20 years), which could entitle to grant family pension to the dependents of the deceased. Position would have been different if the compensation/financial assistance was admissible only in case of death of the employee as a result of motor accident. Then, perhaps, the principles laid down by the learned single Judge in ***Smt. Santosh (supra)*** would have got attracted. However, in the instant case, grant or financial assistance has no relation or relevance with the case of death. The only governing factor is that the employee dies in harness, irrespective of the cause of death, after rendering certain amount of service, leaving his dependants in financial lurch."

11. The Division Bench while concurring with observations in paras 24 to 30 in case of ***Oriental Insurance Company Limited Vs. Saroj Devi (supra),*** observed that the insurance company shall not be entitled to the deduction of the amount given to the dependants under Rules of 2006 while calculating compensation payable under the Motor Vehicles Act.

12. In view of the above observations of the Division Bench in case of ***Reliance General Insurance Company Limited Vs. Purnima and others (supra)***, the benefit of scheme/policy of State Government extended to the families of its employees who lose their bread earner, cannot be allowed to the insurance company. The insurance company cannot take benefit to get their liability excused or reduced because the family of the deceased under a benevolent scheme of the State Government is entitled to the financial assistance from alternative source. The insurance company remain bound by

their statutory liability arising from a contract of indemnity. State by virtue of a welfare legislation launched scheme to help the families in harness and on certain occasions even provides appointment on compassionate ground. Rules of 2006 is one of the scheme of Government which instead of granting compassionate employment, the State has opted to assist the family for a particular number of years, so that they may come out of trauma due to the death of their bread winner. In case, the plea of insurance company that it is entitled to take account of benefits bestowed on family of an employee by State due to his death, in that case, insurance company may also lay claim over the salary of the family member, who had been given appointment on compassionate ground with the plea that the salary of that family member had accrued due to demise of other family member in a motor vehicle accident. The State may withdraw, alter or modify scheme as promulgated vide Rules of 2006 any time and in such eventuality, the benefit, if allowed to insurance company, under this scheme would adversely affect the interest of claimant(s).

13. Counsel for the appellant has not been able to cite any law or judgment contrary to the view taken by the Division Bench in case of ***Reliance General Insurance Company Limited Vs. Purnima and others (supra)***.

14. In view of settled proposition of law above, argument of learned counsel for the appellant is discarded. This appeal has no merits. Dismissed.

15. Registry is directed to send the statutory amount of ₹25,000/- to the Tribunal for payment to respondents-claimants.

(SURINDER GUPTA)
JUDGE

September 19, 2015.
Sachin M.

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Whether to be referred to Reporters: Yes/No