IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.442 of 1993 (O&M)

Date of decision : 09.08.2016

New India Assurance Co. Ltd. and another

......Appellants

Versus

Geeta Devi and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. L.M. Suri, Advocate for appellants.

Respondent No.1 died.

Mr. Sandeep K. Sharma, Advocate for respondents No.2 to 4.

Service of respondent No.5 dispensed with.

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DARSHAN SINGH, J.

The present appeal has been preferred by the New India Assurance Company Limited and Ram Bhagat Nain, the insured and owner of vehicle bearing registration No.MHP-531 against the award dated 02.09.1992 vide which the learned Tribunal has awarded compensation to the tune of ₹ 2,30,960/- on account of the death of Kishan Lal in the motor vehicular accident which took place on 20.08.1990.

2. I have heard learned counsel for the parties and have gone through the paper-book meticulously.

3. Learned counsel for the appellant-Insurance Company contended that the learned Tribunal has determined the income of the

deceased to be ₹ 28,870/- per annum. He contended that the learned Tribunal has not deducted any amount towards the personal and living expenses of the deceased and entire income of the deceased has been taken into consideration to compute the compensation. Thus, the learned Tribunal has committed the illegality.

4. On the other hand, Mr. Sandeep K. Sharma, Advocate, learned counsel for respondents No.2 to 4/claimants contended that there is no reason to interfere with the award passed by the learned Tribunal as the claimants have not awarded the compensation under various conventional heads. If all those heads are taken into consideration, the amount of compensation will be even more than that awarded by the Tribunal to the claimants.

5. I have duly considered the aforesaid contentions.

6. The learned Tribunal has determined the income of deceased Kishan Lal as ₹ 28,870/- per annum on the basis of the income tax return produced on record. It is correct that the learned Tribunal has not deducted any amount towards the personal and living expenses of the deceased and multiplier of 16 has been applied to the whole of the income of the deceased but at the same time, the learned Tribunal has not added any future prospects to the income of the deceased. He was about 35 years of age at the time of the death. 50% of his income was required to be added towards future prospects. Similarly, Smt. Geeta Devi, widow of Kishan Lal has not been awarded any amount on account of loss of consortium. Respondents No.2 to 4, the minor children of deceased Kishan Lal have also not been

awarded any amount towards loss of love, care and guidance. The claimants have also not awarded any amount towards the funeral expenses. If all these amounts are taken into consideration for the computation of the amount of compensation, the same will come even more than the compensation awarded by the Tribunal to respondents No.1 to 4-claimants.

7. The Hon'ble Supreme Court in case ***Ranjana Prakash and others Vs. Divisional Manager and another 2011 ACJ 2418***, has laid down that the High Court cannot increase the compensation in an appeal by the owner/insurer for reducing of the compensation, nor it can reduce the compensation in an appeal filed by the claimant seeking enhancement of the compensation.

8. Thus, in view of my aforesaid discussion, no interference is called for with the impugned award passed by the learned Tribunal. Hence, dismissed.

09.08.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No