209.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4844 of 2011 (O&M)
Date of decision:25.04.2016

The New India Assurance Company Limited ... Appellant

versus

Suresh Prasad Gupta and others .... Respondents

II. <u>FAO No.3460 of 2012</u> (O&M)

Suresh Prasad Gupta and another ... Appellants

versus

Ram Karan and others .... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr.Rishav Jain, Advocate,
for the appellants in FAO No.3460 of 2012 and
for respondents 1 and 2 in FAO No.4844 of 2011.

Mr. V. Ramswaroop, Advocate,
for the appellant in FAO No.4844 of 2011 and
for respondent No.3 in FAO No.3460 of 2012.

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1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

<u>K.Kannan, J.</u> *(Oral)*

1. Both the appeals are connected and the appeal in FAO

No.3460 of 2012 is an appeal for enhancement of compensation for death of a male, aged 19 years, on 06.06.2008 in a motor accident. The claimants were parents. The Tribunal had assessed a compensation of ₹ 3,07,000/-. The appeal is for application for a proper multiplier suitable to the age of the deceased and for provision for prospect of increase of income. The Insurance Company is in appeal in FAO No.4844 of 2011 challenging the issue of liability on the ground that the vehicle was a transport vehicle and insured as a goods carriage and the driver was shown to have only a LMV licence as Ex.R1. The driver was not duly licensed and hence, indemnity ought not to have been provided to the owner and driver.

2. Considering the fact that he was only 19 years of age and the Tribunal was taking the income at ₹3,300/-, I would find no scope for intervention with reference to the income earned but surely he would have had a scope of further increase in future. Keeping in with the inflationary trends and the earning which the avocation would bring to him, I will prospect a 50% increase, apply a multiplier of 18 and provide for ₹1 lakh for loss of love and affection for parents and ₹25,000/- for funeral expenses. The several heads of claims are tabulated as under:-

Accident	06.06.2008		
Age	19		
Occupation			

Claimants	Parents		
	Heads of claim	**Tribunal**	**High Court**
Sr. No.		Amount (₹)	Amount (₹)
1.	Income	3,300	3,300
2.	Add,% of increase 30%/50%		4,950
3.	Deduction ½, 1/3, ¼, 1/5		2,475
4.	Multiplicand		29,700
5.	Multiplier		18
6.	Loss of dependence		5,34,600
7.	Medical expenses		
8.	Loss of consortium		
9.	Loss of love and affection		1,00,000
10.	Loss to estate		5,000
11.	Funeral expenses		25,000
	Total	3,07,000	6,64,600

The aggregate of compensation shall be ₹6,64,600/- and the amount in excess of what has been already awarded will also attract interest at 7.5% from the date of petition till date of payment. Considering the fact that the vehicle was admittedly insured, the Insurance Company shall be made liable to pay.

3. The vehicle was a transport vehicle and as per Section 3 of the Motor Vehicles Act, the driver was required to have a transport vehicle endorsement. I have seen Ex.R1 with a copy of register maintained by the DTO's office that shows that the driver had merely a LMV licence. There had been evidently a breach of violation of terms of policy and the insurer is entitled to recover the amount after satisfying the award.

4. The appeal in FAO No.3460 of 2012 is allowed modifying the award and the appeal in FAO No.4844 of 2011 is also

allowed, making the insurer pay the amount awarded and recover the same against the owner and driver in execution proceedings in the same case.

(K.KANNAN)
JUDGE

25.04.2016
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