IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1665-2013 (O&M)
Date of decision: 16.2.2016

National Insurance Company Limited
...Appellant

Versus

Satwinder Kaur and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Aditya Kochar, Advocate for
Mr.Aswhani Talwar, Advocate for the appellant

Ms.Paramjeet Kaur, Advocate for
Mr.Sandeep Madan, Advocate for respondents No.1 to 3

Mr.Deepak Sabharwal, Advocate for respondent No.4

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SNEH PRASHAR, J.

CM-8704-CII-2013

The appeal having been delayed by 31 days, an application under Section 5 of the Limitation Act was filed by the appellant-Insurance Company for condonation of the same.

For the reasons enumerated in the application, the same is allowed. Delay of 31 days in filing the appeal is hereby condoned subject to all just exceptions.

FAO-1665-2013(O&M)

The present appeal had been filed by the appellant-Insurance Company challenging the award dated 19.11.2012 passed by learned Motor Accidents Claims Tribunal, SAS Nagar (Mohali) (for short 'the Tribunal') vide which a sum of Rs.54,94,104/- was allowed to respondents No. 1 to 4-claimants on account of death of Gurmeet Singh in a motor vehicular accident.

The submissions made by learned counsel for the parties have been heard and record perused.

Referring to the salary slip Ex.C4/Ex.C7 (Annexure A-1,) of the deceased, learned counsel for the appellant raised only one argument that the payment shown as “arrears of pay” on some count, was not part of regular monthly salary. It was a one time payment and could not be included while assessing the monthly income, as has been done by learned Tribunal in the present case.

Learned counsel for respondents No.1 to 4 could not refute the said fact, but urged that no amount was awarded by learned Tribunal under the conventional heads.

On perusal of the salary slip, it transpires that a sum of Rs.4518/- paid as “arrears of pay” had been wrongly added while assessing the monthly income of the deceased. Admittedly, the deceased aged 45 years, was employed as Planning and Recovery Assistant in a Bank and was drawing a salary of Rs.32,750/- per month. There being four dependents, learned Tribunal has rightly deducted 1/4th of his income towards his personal expenses and applied multiplier of 14, in view of law laid down in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**. The claimants were given increase in income of 30% computing future prospects of the deceased.

When the error in assessing the monthly income of the deceased is being rectified, the non-pecuniary counts on which also the Tribunal erred in not allowing compensation cannot be ignored / left untouched especially when the relevant provisions of the Act of 1988 are enacted for the benefit of a victim of a motor accident. Perusal of the award shows that no amount has been awarded under the conventional heads. In view of law laid down in **Vimal Kanwar and others vs. Kishore Dan and others (2013-3) PLR 776**, a sum of Rs.One lac is allowed to the wife on account of loss of consortium, Rs.One lac is allowed to the children and Rs.50,000/- to the mother on account of loss of love, care and guidance and Rs.25,000/- is allowed on account of expenses on last rites etc.

Accordingly, the total compensation comes to Rs.51,03,005/-. Rs.32750/- (monthly income) -10% (income tax) + 30 % (future prospects) x 3/4th (dependency) x 12 x 14 (multiplier) +2,75,000/- (conventional heads). Vide order dated 8.4.2013 passed by this Court, the recovery beyond Rs.45 lacs was stayed. So, the remaining amount of compensation of Rs.6,03,005/- shall be paid to the claimants alongwith interest as awarded by learned Tribunal.

In the above premises, the present appeal is partly allowed and the impugned award is modified as noticed above.

16.2.2016 **(SNEH PRASHAR)**
gsv **JUDGE**