In the High Court of Punjab and Haryana at Chandigarh

FAO No. 1162 of 2014(O&M)
Date of Decision:July 25, 2016

United India Insurance Company Limited

---Appellant

vs.

Anjali Thakur and others

---Respondents

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr.Vinod Chaudhary, Advocate
for the appellant
Mr. Satyaveer Singh, Advocate
for respondent Nos. 1 to 3

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

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<u>Rekha Mittal, J.</u>

The present appeal directs challenge against award dated

1.11.2013 passed by the Motor Accident Claims Tribunal, Chandigarh (in short "the Tribunal") whereby compensation has been awarded in favour of Anjali Thakur and others (respondent Nos. 1 to 3) in regard to death of Smt. Chander Vati in a motor vehicular accident that occurred on 8.10.2012.

Counsel for the appellant has challenged the award primarily on three counts. The first submission made by counsel is that as the deceased was more than 35 years old by taking into consideration her date of birth being 24.12.1976, a multiplier of 15 in place of 16 is admissible. The Tribunal has allowed benefit of increase in income for future prospects to the extent of 50% albeit that the matter with regard to future prospects is pending consideration before a Larger Bench in view of reference made in ***National Insurance Co. Limited vs. Pushpa and others*** *(SLP (C)No. 16735 of 2014 decided on 2.7.2014.*

Another submission made by counsel is that as per the award, income of the deceased is assessed at Rs. 3,97,056/- per annum. No tax was payable upto annual income of Rs. 2,00,000/-. Had the deceased remained alive, she was liable to pay income tax on the balance amount of Rs. 1,97,056/-, therefore, the learned Tribunal has wrongly deducted income tax on an amount of Rs.97,056/- instead of Rs. 1,97,056/-

Counsel for the contesting respondents has supported the award with the submissions that as the deceased had not attained age of 36 year by the time she passed away in October 2013, the learned Tribunal has rightly allowed multiplier of 16. It is further argued that the deceased could invest amount of Rs. 1,00,000/- in various schemes permitting exemption from income tax, thus, the Tribunal has rightly allowed deduction of Rs. 9706/- towards income tax at the rate of 10% on an amount of Rs. 97, 056/-

I have heard counsel for the parties, perused the records particularly the award passed by the Tribunal.

There is no dispute between the parties that the deceased was working as a teacher in a government school and date of birth of the deceased is 24.12.1976. The deceased died on 8.10.2012, therefore, she was more than 35 years of age and was about two months less than 36 years. As per judgment in **Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298**, the admissible multiplier would be 16 for the age bracket 31 to 35 and 15 for the age bracket 36-40. As the deceased was more than 35 years and was just close to 36 years, I find merit in contention of the appellant that the admissible multiplier would be 15 in place of 16.

So far as plea that the matter with regard to grant of benefit of future prospects is pending before a Larger Bench, the said issue pertains to the cases where the deceased is self employed or working on fixed wages to whom benefit of future prospects has been extended by Hon'ble the Apex Court in ***Rajesh and others vs. Rajbir Singh and others (2013)3 RCR (Civil) 170***. The benefit of increase in income for future prospects in case of victim being in a permanent government job, the same has been decided in **Sarla Verma and others' case (supra)** and the said judgment is not pending consideration before a Larger Bench. In this view of the matter, I do not find any error in allowing benefit of future prospectus to the extent of 50%.

This brings the Court to deduction towards income tax. The Tribunal has assessed annual income of the deceased to the tune of Rs. 3,97,056/- Concededly, no income tax was payable on an amount of Rs. 2,00,000/-. Another sum of Rs. 1,00,000/- could be saved from taxation by making certain investments permissible under the Income Tax Act. Had the deceased remained alive, ordinarily as a prudent person, she was expected to make such investments to escape her liability to pay income tax upto an amount of Rs. 3,00,000/- per annum. That being so, I do not find any reason to interfere in the findings of the Tribunal that income tax at the rate of 10% is payable only on the balance amount of Rs. 97056/-.

After modifying the multiplier from 16 to 15, the loss of dependency comes to Rs. 58,10,250/-. The claimants have not preferred appeal seeking enhancement of compensation. As per the settled position in law, the Tribunal has an obligation to assess just, reasonable and equitable compensation to make good the loss as the money can do. The Tribunal has not awarded any compensation to minor daughter of the deceased for loss of love and affection, in the light of judgment **Rajesh and others' case (supra)** and ***Vimal Kanwar and others vs. Kishore Dan and others 2013(2) RCR(Civil)945.*** Thus, respondent Nos. 1 and 2 are awarded an amount of Rs. 1,50,000/- in equal share for loss of love and affection of their mother. The Tribunal has awarded an amount of Rs. 1,00,000/- towards loss of consortium and Rs. 25,000/- for expenses on funeral and last rites of the deceased, the same is affirmed. The total compensation payable to the respondents comes to Rs. 58,10,250 +1,00,000 +1,50,000 + 25000 = Rs. 60,85,250/-. In this manner, the amount of compensation is reduced to the extent of Rs. 2,37,350/- which shall be recoverable by the insurer if it has already discharged liability qua the entire compensation.

The appeal stands disposed of in the aforesaid terms.

(Rekha Mittal)
Judge

July 25, 2016
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