IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.1288 of 2015 (O&M)
Date of decision : 29.02.2016

Reliance General Insurance Company Ltd.

.....Appellant

Versus

Kavita Joshi and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

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

Present: Mr. P.M. Goyal, Advocate for appellant.

Mr. Harpreet Singh Dhandiwal, Advocate
for respondents No.5 & 6.

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DARSHAN SINGH, J.

The present appeal has been preferred by respondent No.3 the Reliance General Insurance Company Limited against the award dated 19.11.2014 passed by learned Motor Accidents Claims Tribunal, SAS Nagar (Mohali) (hereinafter called the 'Tribunal'), vide which respondents No.1 to 4-claimants have been awarded the compensation to the tune of Rs.17,26,000/- along with interest @ 6% per annum from the date of filing the petition till realisation on account of death of Varun

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Joshi in the motor vehicular accident which took place on 26.11.2012.

2. The present appeal has been filed by the appellant-Insurance Company to assail the award.

3. Learned counsel for the appellant-Insurance Company contended that the deceased was unmarried, so the learned Tribunal was required to deduct 50% of the income of the deceased towards his personal and living expenses but the learned Tribunal has deducted only 1/4th from the income of the deceased.

4. He further contended that there was no documentary evidence to prove the income of the deceased. The learned Tribunal has taken the income of the deceased Rs.7000/- per month, which is on the higher side. He further contended that the deceased was not holding any permanent job, so the learned Tribunal has wrongly added the future prospects to the income of the deceased. He contended that the Hon'ble Apex court in case ***National Insurance Company Ltd. Vs. Pushpa and others 2015 (9) SCC 166*** has referred the matter to the larger Bench with respect to addition of future prospects.

5. He further contended that the multiplier has been wrongly applied as per the age of the deceased, which should have been applied as per the age of the mother of the deceased. Thus, he contended that exorbitant amount of compensation has been awarded by the learned Tribunal.

6. On the other hand, learned counsel for respondents No.1 to 4 contended that the claimants were dependent on the income of the deceased as his father has already died. There were four dependents on

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the income of the deceased, so 1/4th of his income has been rightly deducted towards living and personal expenses. He further contended that the deceased was working as a clerk with Ravnoor Enclave, Ropar. He has examined his colleague CW3 Harpreet Singh. So, the income of the deceased has been rightly taken by the learned Tribunal. He further contended that even in a case of self-employee, the future prospects are required to be added to his income and multiplier should also be applied as per the age of the deceased. Thus, he contended that there is no illegality in the award.

7. I have duly considered the aforesaid contentions.

8. The claim petition has been filed by the mother, grandmother, minor brother and minor sister of the deceased. Even from the heading of the petition it is clear that his father Satish Kumar Joshi has already died. So, his widow mother, old widow grandmother (70 years old) and his minor siblings were definitely dependent upon the income of the deceased. So, deceased had four dependents. Thus, the learned Tribunal has rightly deducted the 1/4th of the income of the deceased towards his personal and living expenses.

9. The claimants have alleged that deceased was working as a clerk in Ravnoor Enclave, Ropar with Balwinder Singh Proprietor and was getting Rs.15,000/- per month as salary. CW3 Harpreet Singh is his colleague. So, from his deposition at least it comes out that deceased was working as Clerk, so his salary is not proved. He was a Matriculate, so the learned Tribunal has rightly taken his income to be Rs.7000/- per month i.e. Rs. 84,000/- per annum.

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10. The deceased was an educated person and was doing the clerical job, so his salary/income was bound to increase with the passage of time. Thus, the learned Tribunal has not committed any wrong in adding the future prospects to the income of the deceased. In ***National Insurance Company Ltd. Vs. Pushpa and others*** (supra), relied upon by learned counsel for the appellant due to divergent opinion in cases ***Rajesh and others Vs. Rajbir Singh and others (2013) 9 SCC 54*** and ***Reshma Kumari and others Vs. Madan Mohan and another (2013) 9 SCC 65***, the matter was referred to the Larger Bench. **Pushpa's** case was decided by the Hon'ble Apex Court on 02.07.2014 but in a latter judgment rendered by three-Judges Bench of the Hon'ble Apex Court in case ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others 2015(3) PLR 304***, the future prospects were allowed in case of the self-employed person following the observations in ***Rajesh and others Vs. Rajbir Singh and others*** (supra), wherein it was laid down as under :-

> *"11. As far as future prospects are concerned, in Rajesh and others Vs. Rajbir Singh and others (2013) 9 SCC 54, a three-Judge Bench of this Court held that in case of self-employed persons also, if the deceased victim is below 40 years, there must be addition of 50% to the actual income of the deceased while computing future prospects. To quote:*
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> > *"8. Since, the Court in Santosh Devi case actually intended to follow the principle in the case of salaried persons as laid down in Sarla Verma case and to make it applicable also to the self-employed and persons on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self-employed or persons with fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income*

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should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years."

The deceased being of the age of 30 years, 50% is the required addition."

11. So, the learned Tribunal has rightly added 50% of his income towards future prospects as the deceased was only 23 years of age. As per the latest pronouncement of the Hon'ble Apex Court in case ***Munna Lal***, the multiplier is to be applied as per the age of the deceased. The learned Tribunal has applied the multiplier of 18 keeping in view the age of the deceased, which is also legally correct.

12. Thus, keeping in my aforesaid discussion, there is no illegality in the award passed by the learned Tribunal.

13. Consequently, the present appeal has no merits and the same is hereby dismissed.

29.02.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**

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