IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Decided on: 16.08.2016

1. FAO No.3524 of 2013 (O&M)

New India Assurance Company Limited ....Appellant

Versus

Ranjit Kaur and others ....Respondents

2. FAO No.7468 of 2014 (O&M)

Ranjit Kaur and others ….Appellants

Versus

Surinder Singh and others ….Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. J.S. Chatrath, Advocate
for Mr. Ashwani Talwar, Advocate
for the appellants (in FAO No.3524 of 2013)
and for respondent No.3 (in FAO No.7468 of 2014)

Mr. Mohit Jaggi, Advocate
for respondents No.1 to 3 (in FAO No.3524 of 2013)
and for the appellants (in FAO No.7468 of 2014)

Mr. Vinod Gupta, Advocate
for respondent No.3 (in FAO No.7468 of 2014)

REKHA MITTAL, J.

CM No.20039-CII of 2014 in FAO No.7468 of 2014

Prayer in this application is for condoning delay of 137 days in re-filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Satwinder Singh and in absence of any challenge to correctness of the averments set up in the application, the application is allowed and delay of 137 days in re-filing the appeal stands condoned.

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MAIN CASE

This order will dispose of FAO Nos.3524 of 2013 *'New India Assurance Company Limited vs Ranjit Kaur and others'* and No.7468 of 2014 *'Ranjit Kaur and others vs Surinder Singh and others'* as these have emerged out of the same award dated 12.03.2013 passed by the Motor Accident Claims Tribunal, Chandigarh (for short 'the Tribunal') whereby Ranjit Kaur and others (claimants) have been allowed compensation in respect of death of Smt. Jasbir Kaur in a motor vehicular accident that occurred on 05.10.2009.

The parties shall be referred to as 'the claimants' and 'the insurance company' for the sake of convenience.

Counsel for the claimants has contended that the learned Tribunal has assessed income of the deceased @ Rs.3,000/- per month and value of her services as a house-maker at Rs.4,000/- per month, deducted 1/3rd towards personal expenses, adopted a multiplier of 14 to compute loss of dependency. An amount of Rs.5,000/- for funeral expenses and Rs.10,000/- for consortium to the husband has been awarded. It is argued that deduction made by the Tribunal out of an amount of Rs.4,000/- assessed towards services of the deceased to the family is not admissible in view of Division Bench judgment of this Court ***"Paramjit Singh and another vs Dilbagh Singh @ Bagga and others",*** **2014(4) AICJ 65**. The Tribunal has not awarded any compensation for loss of love and affection to the children and compensation awarded under conventional heads needs re-look and enhancement.

Counsel for the insurance company, on the contrary, has

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submitted that there is no tangible and cogent evidence produced by the claimants to prove that the deceased had been stitching the clothes and was earning hand, hence assessing income of the deceased from tailoring, etc. is liable to be set-aside.

I have heard counsel for the parties, perused the paperbook and the original records.

The Tribunal has assessed income of the deceased at Rs.7,000/- per month i.e. Rs.4,000/- towards services rendered to the family and Rs.3,000/- as income from tailoring work. One of the claimants namely Ranjit Kaur, daughter of the deceased appeared in the witness-box and tendered into evidence her duly sworn affidavit Ex.PW1/A wherein she has categorically deposed that the deceased was contributing substantially to income of the house by stitching clothes and her income was approximately Rs.5,000/- per month. Indisputably, testimony of Ranjit Kaur that the deceased was stitching clothes and earning money does not find corroboration from any documentary evidence. However, nothing fruitful has been elicited in her cross-examination to discard and disbelieve her testimony that her mother was contributing to income of the family by stitching clothes. In this view of the matter, I do not find any reason to interfere in the assessment made by the Tribunal *qua* her income from stitching of clothes.

The learned Tribunal has allowed deduction to the extent of 1/3rd from the entire amount of Rs.7,000/- whereas deduction to the extent of 1/3rd would be admissible only *qua* income of the deceased from stitching. That being so, monthly dependency of the claimants

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would be Rs.6,000/- per month and after allowing a multiplier of 14 in terms of the award of the Tribunal, loss of dependency comes to ***Rs.10,08,000/-*** (Rs.6,000/- x 12 x 14). The children of the deceased shall be entitled to an amount of ***Rs.1,50,000/-*** in equal share for loss of love and affection. The husband of the deceased shall be entitled to an amount of ***Rs.1,00,000/-*** for consortium. The claimants shall further be entitled to ***Rs.25,000/-*** for funeral expenses. In this manner, total compensation payable to the claimants comes to ***Rs.12,83,000/-***. The enhanced compensation is ***Rs.2,43,800/-*** (Rs.12,83,000/- – Rs.10,39,200/-) payable with interest @ 7.5% per annum from the date of filing of the petition till realization.

The enhanced compensation shall be payable to children of the deceased in equal share and deposited in the shape of FDR in a nationalized bank for a period of three years.

The appeals are disposed of in the aforesaid terms.

16.08.2016 **(REKHA MITTAL)**
yakub **JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

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