IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

F.A.O.No.1525 of 2015 (O&M)
Date of decision: 18.3.2016

United India Insurance Company Limited

... Appellants

Versus

Puneet Kumar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE K.KANNAN

Present: Mr.S.S.Sidhu, Advocate,
for the appellant.

Mr.Nitin Mittal, Advocate,
for respondents No.1 to 4.

Mr.D.K.Prajapati, Advocate,
for respondent No.6.

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1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

K.KANNAN, J. (Oral)

The appeal is at the instance of the insurer challenging the compensation awarded by the Tribunal as excessive. The deceased was the owner of a truck and he had employed his son-in-law as a driver of the truck. There was evidence that there was hypothecation created in relation to the truck and he was repaying the instalment of ₹ 10,000/- to ₹ 12,000/- per month. It was stated on behalf of the claimants that the deceased was also doing the work as an electrician and earning about ₹ 5,000/-.

Relying on the judgment of this Court in **General Insurance Company Limited** v. **Sayera Khatoon and others;** FAO No.1207 of 2014 decided on 3.3.2014 that the premium paid by a deceased shall be indicative of the income earning capacity, the Tribunal assessed the evidence given that he was earning as an electrician and was also managing a truck and giving a salary of ₹ 7000/- per month to his son-in-law, the Tribunal assessed the income to be ₹ 12,000/- per month. In the manner of reckoning therefore, it was allowed ₹ 5,000/- as income as an electrician and was providing an amount of ₹ 7,000/- for managing a truck at par with the value of the service for a driver. The Tribunal was justified in adopting such a valuation and no exception could be taken as regards the mode of assessment of quantum of compensation by the Tribunal.

The argument that the truck is still available to earn income, fails to factor the managing capacity of doing the business of running a truck economically in order that even the loan contracted thereon was paid back. That cannot be denied to the claimants because the economic loss is the value of the service which the husband was rendering in running the business. The assessment is correct and would require no intervention. The amount of ₹ 25,000/- deposited to the credit of the case is ordered to be transmitted to the credit of the case before the Tribunal towards partial discharge of liability under the award.

The appeal is dismissed.

(K.KANNAN)
JUDGE

March 18, 2016

Paritosh Kumar