IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.486 of 2013 (O&M)
Decided on: 02.08.2016

New India Assurance Company Limited
....Appellant

Versus

Ranjit Kaur and others ....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. R.C. Gupta, Advocate for the appellant.

Mr. Satender Khanna, Advocate
for respondents No.1 to 3.

REKHA MITTAL, J.

The New India Assurance Company Limited (hereinafter to be referred as 'the Company') has filed the appeal to challenge the award dated 03.11.2012 passed by the Motor Accident Claims Tribunal, Ludhiana (in short 'the Tribunal') whereby compensation has been awarded in favour of Ranjit Kaur and others in respect of death of Sh. Manjit Singh in a motor vehicular accident that occurred on 31.10.2009.

The sole submission made by counsel for the Company is that the learned Tribunal has assessed income of the deceased at Rs.10,000/- per month without there being any evidence with regard to avocation of the deceased or his having any agricultural land. It is further argued that income of the deceased is required to be assessed on the basis of daily wage of an unskilled worker fixed by the State of Punjab and available in October/November, 2009.

Counsel for the respondents/claimants, on the contrary, has submitted that they have not been allowed benefit of increase in income for future prospects and compensation awarded under conventional heads needs re-look and enhancement in the light of judgments of Hon'ble the Apex Court ***"Rajesh and others Vs. Rajbir Singh and others",*** **2013(3) R.C.R. (Civil) 170 and** ***"Vimal Kanwar and others vs. Kishore Dan and others"*** **2013(2) R.C.R. (Civil) 945.**

I have heard counsel for the parties and perused the paperbook particularly the award passed by the learned Tribunal.

Be that as it may, it is a settled position in law that the learned Tribunal has an onerous obligation to assess just, reasonable and equitable compensation to make good the loss in terms of money as far as it can do.

The learned Tribunal has assessed income of the deceased at Rs.10,000/- per month. There is no tangible evidence on record to prove that the deceased had any land or was a skilled worker. In absence of sufficient evidence, income of the deceased is to be assessed on the basis of minimum wage of an unskilled worker in October/November, 2009 and accordingly, monthly income of the deceased is assessed at Rs.3,800/-. After allowing deduction to the extent of 1/4th, monthly dependency comes to Rs.2,850/- (Rs.3800/- – Rs.950/-). The respondents/claimants are allowed benefit of future prospects to the extent of 50%. After applying the multiplier of 15 in terms of the award, loss of dependency comes to ***Rs.7,69,500/-*** (Rs.2,850/- x 12 x 15 = Rs.5,13,000/- + Rs.2,56,500/- (50% towards future prospects)). The widow of the deceased shall be entitled to an amount of ***Rs.1,00,000/-***towards loss of consortium. The children of the deceased namely Simranjit Singh and Ramandeep Kaur shall be entitled to an amount of ***Rs.1,50,000/-*** in equal share towards loss of love and affection of their father. Gurjit Kaur, mother of the deceased is allowed an amount of ***Rs.50,000/-*** for loss of love and affection of her son. The claimants/respondents shall be entitled to an amount of ***Rs.25,000/- each*** for loss of estate and funeral expenses. The medical expenses allowed by the Tribunal to the tune of Rs.4,07,884/- is rounded off to ***Rs.4,08,000/-***. In this manner, the total amount of compensation payable to the claimants comes to ***Rs.15,27,500/-*** with interest @ 7.5% per annum from the date of filing of the claim petition till realization. The Tribunal has granted compensation of Rs.17,68,000/- as such, a sum of Rs. 2,40,500/- is recoverable from the claimants, if already paid by the appellant, as per rules.

The appeal is partly allowed in the aforesaid terms.

(REKHA MITTAL)
JUDGE

02.08.2016
yakub

Whether speaking/reasoned Yes/No

Whether reportable: Yes/No