IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 5376 of 2013 (O&M)
Date of decision: 22.03.2016

New India Assurance Company Limited

... Appellant

versus

Pyari Devi and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

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

None for the respondents.

K.Kannan, J. (ORAL)

The appeal is at the instance of the insurer on an issue of quantum for death of a male aged 57 years and working as an Assistant in Haryana State Agriculture Department. The deceased was earning Rs. 17,587/- at the time of his death. The claimants were widow, married son & daughter and an unmarried son.

The only point urged before me is the deduction of 1/3rd and applying the multiplier of 9 for the salary as given, but, according to the insurer the salary could not have been taken for all the number of years and the income must have been scaled down beyond the period of retirement. The contention of the insurer is not tenable, for, the choice of multiplier is never to made to depend on the number of years of service left. It is assumed that a person can contribute to the family even beyond the period of his retirement and the unit of multiplier for a person above the age of 50 is invariably more than number of years of service left, only because at the retirement, it is never assumed that the income falls to zero. The income must be taken as to what he was actually earning at the time of retirement and the choice of multiplier also shall be in the manner provided in Sarla Verma Vs. Delhi Transport Corporation, 2009 (3) RCR (Civil) 77. There was no error committed by the Tribunal in assessing the compensation in the manner it was done. There is also a ground that since the deceased met with his death in harness while in Government service and the wife obtains the compassionate financial assistance and that must have been duly factored. This contention has been rejected in Reliance General Insurance Company Limited Vs. Purnima, 2013 (2) PLR 306 by Division Bench of this Court and I am not prepared to reopen the issue for the insurer, although the said contention is that it is reported to be still pending consideration. As far as this Court is concerned it is bound by Division Bench ruling on the subject.

There is no scope for interference, and more so, in a situation where the scales of compensation for love and affection for the children and parents are independently provided, apart from the loss of consortium to the wife in the range of Rs. 50,000/- to Rs. 1,00,000/-. The Tribunal has provided only for Rs. 1,00,000/- for all of them together. If the proper reckoning should be made it should be even more. The award is sustained and the appeal is dismissed.

(K.KANNAN)
JUDGE

22.03.2016
kv