IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

X-OBJC-64-CII-2015 IN/AND
FAO No.642 of 2013 (O&M)
Decided on: 11.08.2016

Reliance General Insurance Company Limited

....Appellant

Versus

Jamna Devi and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Nitin Mittal, Advocate
and Mr. Subhash Goyal, Advocate
for the appellant.

Mr. Dheeraj Narula, Advocate
for respondents No.1 and 2/cross-objectors.

REKHA MITTAL, J.

This order will dispose of FAO No.642 of 2013 "Reliance General Insurance Company Limited vs Jamna Devi and others" as well as the cross-objections filed by the claimants which have emerged out of award dated 09.08.2012 passed by the Motor Accident Claims Tribunal, Sirsa (for brevity 'the Tribunal').

Jamna Devi and Bhajan Lal, parents of deceased – Surender Kumar were allowed compensation to the tune of Rs.6,68,000/- i.e. Rs.6,48,000/- (Rs.3,000/- x 12 x 18) towards loss of dependency and another sum of Rs.20,000/- has been awarded without describing its head.

Counsel for the appellant – Reliance General Insurance Company Limited (in short 'the insurance company') has submitted that the Tribunal has deducted 1/3rd towards personal expenses of the deceased as against 50% in consonance with the judgment of Hon'ble the Supreme Court of India ***"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another",*** **2009(3) R.C.R. (Civil)** 77, reiterated in ***"Reshma Kumari and others vs Madan Mohan and another",*** **2013(2) RCR (Civil) 660.** Another submission made by counsel is that the learned Tribunal has allowed multiplier of 18 but the multiplier should be as per age of the mother of deceased.

Counsel for the cross-objectors/respondents No.1 and 2 (hereinafter to be referred as 'the claimants') has submitted that the deceased was running a furniture shop as deposed by Moman Ram – PW3 and a certificate issued by the Gram Panchayat of village Balasar, Tehsil Rania, District Sirsa, thus, income of the deceased assessed @ Rs.4,500/- per month requires enhancement. The Tribunal has not awarded any compensation towards future prospects and compensation under conventional heads also requires re-look and enhancement.

I have heard counsel for the parties, perused the paperbook and records of the learned Tribunal.

The learned Tribunal has assessed income of the deceased at Rs.4,500/- per month by taking into consideration the wage available to a skilled labourer. Counsel for the claimants is fair enough to concede that there is no documentary evidence on record with regard to the extent of business allegedly carried on by the deceased much less earnings therefrom. Moman Ram – PW3 has deposed that Surender Kumar was running a furniture shop in his village. In absence of any clear, cogent and convincing evidence with regard to nature and extent of business much less income generated, I do not find any reason to interfere in the findings of the Tribunal assessing income of the deceased at Rs.4,500/- per month. As the claimants are parents of the deceased and in absence of any special circumstances to vary from deduction to the extent of 50%, deduction towards personal expenses would be to the extent of 50%. The claimants shall be entitled to benefit of increase in income for future prospects to the extent of 50%. The plea of the appellant with regard to multiplier cannot be accepted in view of judgment of Hon'ble the Apex Court ***Sarla Verma's case (supra)*** and ***Reshma Kumari's case (supra)***.

In view of the above, loss of dependency comes to ***Rs.7,29,000/-*** (Rs.4,500 x 12 x 18 = Rs.9,72,000/- + Rs.4,86,000/- (50% for future prospects) = Rs.14,58,000/- – Rs.7,29,000/- (50% deduction towards personal expenses).

The claimants shall be entitled to ***Rs.25,000/- each*** for expenses on funeral and loss of estate. Smt. Jamna Devi, mother of the deceased shall be entitled to an amount of ***Rs.50,000/-*** for loss of love and affection of her son. The total compensation payable to the claimants comes to ***Rs.8,29,000/-***. The enhanced compensation is calculated at ***Rs.1,61,000/-*** (Rs.8,29,000/- – Rs.6,68,000/-) which shall carry interest @ 7.5% per annum from the date of filing of the petition till realization.

Disposed of accordingly.

(REKHA MITTAL)
JUDGE

11.08.2016
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Whether speaking/reasoned Yes/No

Whether reportable: Yes/No