IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3334 of 2016 (O&M)
Date of decision:June 3, 2016

The Oriental Insurance Company Limited ......Appellant

Versus

Ishrat and others ......Respondents

CORAM: HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr. Sanjiv Pabbi, Advocate
for the appellant – Insurance Company.

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HARINDER SINGH SIDHU, J.

For the reasons mentioned in the application, delay of 11 days in filing the appeal is condoned, subject to all just exceptions.

Irfan, aged about 30 years, a thread worker in a factory lost his life on 08.10.2014 in a vehicular accident involving motorcycle bearing No. HR-99-TN-3428. The Motor Accident Claims Tribunal, Karnal (for short, the Tribunal) on a claim petition filed by the father, widow and four minor children of the deceased, assessed the income of the deceased at Rs.6600/- per month treating him to be a daily wager. Since the deceased was below 40 years, thus, increase of 50% was allowed in the income. In view of the number of dependants (6), 1/4th of the income was deducted towards personal and living expenses of the deceased, and multiplier of 17 was applied to assess the loss of dependency (7425x12x17=15,14,700/-). Besides a sum of Rs.1,00,000/-, each, for `loss of consortium' and `loss of love and affection, care and guidance for minor children' was also awarded. Rs.50,000/- were awarded for `transportation and funeral expenses'. In all, compensation of Rs.17,64,700/- along with interest was awarded to the claimants- respondents.

The Insurance Company has filed the present appeal challenging the award.

The factum of accident, involvement of the vehicle, loss of income and dependency are not in dispute.

The sole argument raised on behalf of the appellant-Insurance Company is that as the avocation of the deceased was not of permanent nature, therefore, no increase of income on account of future prospects was permissible. Ld. Counsel has submitted that the question regarding addition in the income towards future prospects in case of self employed persons is pending before the Larger Bench of Hon'ble Supreme Court in case **National Insurance Company Limited vs. Pushpa, 2015(9) SCC 166**. He argues that pending the decision of the reference, increase on account of future prospects ought not be granted.

On the question of addition in income towards future prospects, the Hon'ble Supreme Court in **Rajesh and others vs. Rajbir Singh and others**, **2013 ACJ 1403**, has held that in case of self-employed or persons with fixed wages, below 40 years, there must be an addition of 50% to the actual income of the deceased.

This Court in various first appeals including **FAO No.1207 of 2014 titled "Reliance General Insurance Company Ltd. vs. Sayera Khatoon and others**" decided on 3.3.2014, **FAO No.1502 of 2015 titled**

"National Insurance Company Limited vs. Pushpa Singh Chauhan and others" decided on 20.3.2015 and **FAO No.4299 of 2015 titled "Oriental Insurance Company Limited vs. Swarna Devi and others"** decided on 1.9.2015 has upheld the addition to the income towards future prospects, where, the deceased were either self-employed or working in un-organised sectors. The Special Leave Petitions filed against the aforesaid decisions have been dismissed by the Hon'ble Supreme Court. All these decisions are after the reference to the larger bench in **Pushpa's** case (supra).

The view taken in **Rajesh's case** (supra) has been followed by the Hon'ble Apex Court in **Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(6) SCC 347**, as also by this Court in various decisions (referred to above), SLPs against which have been dismissed after the reference in **Pushpa's** case (supra). Thus, the Tribunal has committed no error while allowing 50% addition in the income towards future prospects and granting compensation to the claimants accordingly.

No other point was argued.

Appeal dismissed.

June 03, 2016 **(HARINDER SINGH SIDHU)**
gian **JUDGE**