In the High Court of Punjab and Haryana at Chandigarh

FAO No.3866 of 2016(O&M)
Date of Decision:20.10.2016

National Insurance Company Limited

---Appellant

versus

Baljit Kaur and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.Sandeep Suri, Advocate
for the appellant

***

REKHA MITTAL, J.

The insurance company is in appeal to assail the award dated 26.11.2015 passed by the Motor Accidents Claims Tribunal, Ludhiana (in short "the Tribunal") whereby compensation to the tune of Rs. 23,19,000/- payable with interest @ 6% per annum from the date of petition till realization, has been allowed in favour of Smt. Baljit Kaur and others in regard to death of Pawan Kumar in a motor vehicular accident on 6.2.2015.

The sole submission made by counsel for the appellant is that the Tribunal has assessed income of the deceased on the basis of documents Exs. C6 to C9, copies of income tax returns, not sufficient to determine income of the deceased from the alleged job of embroidery by installation of machines in Nagesh Knitwears Private Limited. It is further submitted that there is no other supporting document to prove income of the deceased.

I have heard counsel for the appellant, perused the paper book particularly the award passed by the Tribunal.

The Tribunal assessed income of the deceased at Rs. 1,95,000/- per annum, deducted $1/4^{th}$ for personal expenses and calculated income for loss of dependency at Rs. 1,46,250/- per annum.

A relevant extract from order dated 29.8.2016 passed by this Court, reads as follows:-

> "Counsel for the appellant submits that the learned Tribunal has assessed income of the deceased on the basis of documents (Ex. C6 to C9), which are photocopies, marked as exhibits in the statement of widow of the deceased, therefore, the same have not been proved, in accordance with law.

Necessary verification be sought from the Income Tax authority at Ludhiana qua correctness of the documents (Ex. C6 to C9) with a further direction that if any other document was also appended alongwith Ex. C6, a copy thereof, may be sent to this Court.

List again on 20.10.2016."

Counsel for the appellant has fairly informed that on necessary verification from the income tax authority at Ludhiana, the documents Exs. C6 to C9 are found to be correct. These documents pertain to deduction of TDS by Nagesh Knitwears Private Limited for whom the deceased was doing the job of embroidery. One of the document Ex. C6 is the income tax return filed by the deceased prior to his death. Keeping in view the above, I do not find any error much less illegality in the findings recorded by the Tribunal holding that the deceased was earning Rs. 1,95,000/- per annum in view of documents Exs. C6 to C9. The matter would have been different had the income tax return been filed subsequent to death of the deceased. This apart, the TDS deductions were made by M/s Nagesh Knitwears Private Limited a long before death of the deceased and the same were duly remitted to the bank in compliance with the provisions of the Income Tax Act. In this view of the matter, I do not find any error in assessment of income by the Tribunal.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed. As the appeal has been decided on merit, the application for condonation of delay is of academic relevance only.

(Rekha Mittal)
Judge

20.10.2016
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No