IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 413 of 2016 (O&M)
Date of decision : April 23, 2016

Oriental Insurance Co. Ltd.
...... Appellant

v.
Seeto @ Sito Devi & others,
...... Respondents

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CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

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Present : Mr. JS Chatrath, Advocate
for Mr. Ashwani Talwar, Advocate
for the appellant.

Mr. Ashwani Arora, Advocate
for respondents No.1 to 6.

Mr. NS Sitta, Advocate
for respondent No.9.

Mr. Deepak Sharma, Advocate
for respondent No.10.

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1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

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Ajay Tewari, J (Oral)

This appeal has been filed by the Insurance Company on the issue of quantum of compensation awarded by the Tribunal to the claimants/respondents No.1 to 6, by the Award dated 29.7.2015.

Brief facts are that on 12.4.2012 at about 3.45 pm, the deceased

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was coming from Jayanti Majra to Chandigarh on a motor cycle and when he reached near the pump house, close to the main gate of the PGI, Chandigarh, an accident took place between Bolero jeep and Esteem Car, and right front tyre of Bolero jeep bursted and the jeep struck against the motor cycle of the deceased-Jeet Ram. As a result of this, the deceased fell down and received serious injuries and ultimately died. The Tribunal came to the conclusion that the said accident took place due to the composite negligence of the drivers of both the vehicles i.e Bolero Jeep and Esteem car, being driven by respondents No.9 and 7 respectively. Annual income of the deceased was assessed as ₹ 3,25,560/- and after making a provision for 30% increase, gross annual income of the deceased came to be ₹ 4,23,228/-. Multiplier of 13 was applied and after deducting 1/4th towards personal and living expenses, compensation amount came to be ₹ 41,26,473/-. Besides this, a sum of ₹ 25,000/- was awarded as funeral expenses, a sum of ₹ 1 lac each was awarded to respondent No.1 for loss of consortium and to respondent No.4 for loss of love and affection, and a sum of ₹ 39,900/- was awarded for medical expenses.

Counsel for the appellant has argued that if the Tribunal has taken the income of the deceased as ₹ 27,130/- per month but has not deducted the amount approximately ₹ 1000/- which was for mobile allowance, cycle allowance, washing allowance and fixed medical allowance.

Counsel for the claimants/respondents No.1 to 6 has relied upon Sunil Sharma and others v. Bachitar Singh and others, 2011 AIR SC (Civil) 1336 to assert that only income tax is to be deducted and these allowances have to be taken as income.

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In this view of the matter, I find no merit in this appeal and the same is dismissed.

(AJAY TEWARI)
JUDGE

April 23, 2016
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