IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.7508 of 2014 (O&M)
Decided on: 15.07.2016

Reliance General Insurance Company Limited
....Appellant

Versus

Vidhya Devi and others ....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. R.K. Bashamboo, Advocate for the appellant.

None for the respondents.

1. *Whether Reporters of local papers 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?*

REKHA MITTAL, J.

The present appeal has been directed against the award dated 18.12.2013 passed by the Motor Accident Claims Tribunal, Karnal, whereby Vidhya Devi and others (claimants) have been awarded compensation in respect of death of Sh. Jagdish son of Suraj Bhan under Section 166 of the Motor Vehicles Act.

The appeal preferred by the Reliance General Insurance Company Limited (in short 'the company') was dismissed vide order dated 05.09.2014. However, the Court took *suo motu* notice and issued notice to the appellant – insurance company, the driver and owner of the offending vehicle as to why the claimants are not awarded compensation as per judgment of Hon'ble the Supreme Court in ***"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another",*** **2009(3) R.C.R. (Civil) 77** and ***"Rajesh and others Vs. Rajbir Singh and others",*** **2013(3) R.C.R. (Civil) 170**.

Though, it was ordered to issue notice to the driver and owner of the vehicle in question but as the appellant-company has been held jointly and severally liable to pay the amount of compensation without any right of recovery, service of driver and owner is dispensed with.

I have heard counsel for the company, perused the records particularly the award passed by the Tribunal.

Counsel for the insurance company has not disputed that as the deceased was less than 50 years' of age, the appropriate multiplier for loss of dependency would be 13 in place of 11 as adopted by the Tribunal. With regard to increase in income for future prospects, counsel has submitted that as income of the deceased assessed by the Tribunal also included income from agriculture and land would still be available with the family of the deceased, no further enhancement towards future prospects is justified.

The respondents/claimants shall be entitled to receive compensation by applying a multiplier of 13 in place of 11 in the light of judgment ***Smt. Sarla Verma and others case (supra)*** reaffirmed in ***"Reshma Kumari and others vs Madan Mohan and another",*** **2013(2) RCR (Civil) 660**.

The Tribunal has assessed income of the deceased to the tune of Rs.20,000/- per month on the basis of income disclosed in the claim petition, even though, the claimants proved on record acknowledgment Ex.P-1 for the Assessment Year 2009-10 wherein income of the deceased has been reflected as Rs.2,89,830/- including income from agriculture. Once income of the deceased has been assessed at Rs.20,000/- per month and challenge to the award at the behest of the company has been rejected, I find myself unable to accept the submissions made by counsel that the respondents/claimants are not entitled to benefit of increase in income to the extent of 30% in view of age of the deceased (less than 50 years) or benefit already allowed to the tune of 15% is liable to affirmed. After applying a multiplier of 13 and extending benefit of future prospects to the extent of 30%, the loss of dependency comes to ***Rs.27,04,000/-*** (Rs.20,000/- x 12 x 13 = Rs.31,20,000/- + Rs.9,36,000/- (30% towards future prospects) = Rs.40,56,000/- – Rs.13,52,000/- (deduction of 1/3rd). The amount of ***Rs.1,00,000/- each*** in respect of loss of consortium and loss of care and guidance to minor children as well as ***Rs.25,000/-*** on account of funeral expenses awarded by the Tribunal shall remain intact. In this manner, total compensation payable to the claimants comes to Rs.29,29,000/-. The enhanced compensation is calculated at ***Rs.6,54,700/-*** (Rs.29,29,000/- – Rs.22,74,300/-). The enhanced compensation shall carry interest @ 7.5% per annum from the date of filing of claim petition till realization.

The enhanced compensation shall be payable to widow of the deceased and shall be deposited in the shape of FDR in a nationalized bank, for a period of two years.

Disposed of accordingly.

The Registry is directed to send a copy of the order to the claimants/respondents for intimation.

(REKHA MITTAL)
JUDGE

15.07.2016
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