IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 5324 of 2016 (O&M)
Date of Decision : 04.10.2016

Reliance General Insurance Company Ltd. ....Appellant

Versus

Rahisan and others ....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sanjeev Kodan , Advocate
for the appellant-Insurance Company.

<u>Surinder Gupta, J.</u>

This is appeal by Reliance General Insurance Co. Ltd. against award dated 27.07.2016, passed by Motor Accident Claims Tribunal, Mewat (later referred to as 'the Tribunal') whereby compensation of ₹14,57,088/- was allowed to claimants for death of Tahir (later referred to as 'the deceased') in a motor vehicle accident with vehicle bearing registration No. HR-27-D-2929 (later referred to as the offending vehicle').

2. Case of claimants, in brief, is that on 01.06.2015 at about 11.30 a.m., the deceased alongwith Abdul was going to Ferozepur Jhirka from village Dihana for attending a marriage in Alto car bearing No. HR-27-D-6486 and driver of the car was driving it at a slow and moderate speed and on correct left side of the road. When they reached ahead of bridge of Akeda, the offending vehicle, which was being driven by respondent no. 7 in a rash and negligent manner and without blowing any horn, came there from front side i.e. Ferozepur Jhirka and hit the Alto car,

as a result of which the deceased sustained multiple grievous injuries on his body. He was got admitted in S.H.K.M., Nalhad by some persons from where he was referred to Trauma Centre, Delhi. He remained there till 09.06.2015 and ultimately succumbed to injuries sustained by him on 09.06.2015. The deceased, aged 50 years, was car painter in Saudi Arabia and was earning 1600 Riyal per month in Arabian currency (₹25000/- per month in Indian currency). A sum of ₹3,00,000/- was spent on the transportation, last rites and treatment of the deceased.

3. Learned counsel for the appellant has argued that the Tribunal, while computing compensation, has taken monthly income of the deceased as ₹8100/- considering him as an unskilled labourer without there being any evidence in this regard, which is on higher side. Tribunal also allowed 30% addition in income of the deceased towards future prospects despite the fact that question for grant of addition in income of the deceased towards future prospects has been referred to a larger Bench of Apex Court in case of ***National Insurance Company Limited* vs. *Pushpa and others*, 2015 (9) SCC 166** and till the judgment by larger Bench.

4. Firstly, I take argument raised by learned counsel for the appellant regarding assessment of monthly income of the deceased, who was 50 years of age. Rahisan, wife of the deceased, while appearing as PW-1 has stated that the deceased was car painter in Saudi Arabia and he was earning 1600 Riyal per month in Arabian Currency, which is equal to ₹25,000/- per month in Indian Currency. She has proved on record passport of the deceased as Ex. P-17, Employment Agreement as Ex. P-18

and Interview Card as Ex. P-19.

5. Even if, the above documents proved on record by claimants are not accepted, still keeping in view age of the deceased and the fact that accident took place in the year 2015, when even a daily wager could earn ₹300/- per day, income assessed by the Tribunal as ₹8100/- per month is not on higher side. In these circumstances, I find no reason to interfere with the observation of the Tribunal assessing income of the deceased.

6. Secondly, in the case of ***Pushpa (supra)***, while differing with the view taken in case of ***Sarla Verma and others*** ***vs.*** ***Delhi Transport Corporation and anr., (2009) 6 SCC 121,*** it was observed as follows:-

> "*18. Therefore, we do not think that while making the observations in the last three lines of para 24 of* ***Sarla Verma*** *judgment, the Court had intended to lay down an absolute rule that there will be no addition in the income of a person who is self-employed or who is paid fixed wages. Rather, it would be reasonable to say that a person who is self-employed or is engaged on fixed wages will also get 30% increase in his total income over a period of time and if he/she becomes the victim of an accident then the same formula deserves to be applied for calculating the amount of compensation.*"

7. In case of ***Rajesh (supra),*** a three Judges Bench of Hon'ble Apex Court has observed in para 11 and 12 as follows:-

> "*11. Since, the Court in* ***Santosh Devi's case***[1] *(supra) actually intended to follow the principle in the case of salaried persons as laid in* ***Sarla Verma's case***

1Santosh Devi v. National Insurance Co. Limited, (2012) 6 SCC 421

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(supra) and to make it applicable also to the self-employed and persons on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self-employed or persons with fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years.

12. In ***Sarla Verma's case*** *(supra), it has been stated that in the case of those above 50 years, there shall be no addition. Having regard to the fact that in the case of those self-employed or on fixed wages, where there is normally no age of superannuation, we are of the view that it will only be just and equitable to provide an addition of 15% in the case where the victim is between the age group of 50 to 60 years so as to make the compensation just, equitable, fair and reasonable. There shall normally be no addition thereafter.* "

8. Reference was made to a larger Bench of Hon'ble Apex Court in case of ***Pushpa (supra)*** on 02.07.2014. In the recent judgment dated 15.05.2015 in case ***Munna Lal Jain (supra),*** a three Judges Bench of Hon'ble Apex Court allowed future prospects in the case of self-employed persons following the observations made in case of ***Rajesh (supra)***.

9. The concept of future prospects envisages chances or opportunities for success and further progress in life which is a normal course of event for every human being involved in any avocation. Even if,

keeping in view his ability, capacity etc., one may not be in a position to rise in life, there is another aspect that justifies the grant of addition in the income of the deceased, which is the 'inflationary trend' in which we all are living. I take instance of a tailor. It is a matter of common knowledge that stitching charges have increased manifold during last two decades due to increase in expenses of material/labour charges/margin of persons in this profession, with consequential increase in their income. This is because of high increase in the cost of living. The prices of grocery items of daily need have also increased manifold. The dependents of a victim in accident have also to face the same situation. The amount of compensation is required to be just and reasonable keeping the inflationary trend in view, where the prices of the basic amenities of life are likely to increase further.

10. In view of my above discussion, the Tribunal committed no error while allowing 30% addition in income of the deceased towards future prospects while allowing the compensation to claimants. No interference on this score is called for.

11. No other argument has been advanced by learned counsel for the appellant.

12. This appeal has no merit. Dismissed.

October 04, 2016 **(SURINDER GUPTA)**
jk **JUDGE**

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No