123.

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**FAO No.611 of 2016 (O&M)**
Date of decision:29.01.2016

Reliance General Insurance Company Limited ... Appellant

versus

Harpinder Kaur and others .... Respondents

**CORAM: HON'BLE MR. JUSTICE K. KANNAN**

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Present: Mr. Sanjeev Kodan, Advocate, for the appellant.

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1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

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***K.Kannan, J.*** *(Oral)*

1. The appeal by the insurer is on an issue of quantum. The appellant has several objections which I detail one after another to find that there is nothing seriously amiss for intervention.

2. The wife's contention was that the husband was doing agricultural work and was earning ₹25,000/- per month and was also working as a Granthi earning a remuneration of about ₹10,000/-. The Tribunal found that there was no documentary proof for these assertions and took ₹8,100/- as the minimum wage that would have been possible. The Insurance Company contends that the accident

had taken place on 20.02.2015 and the minimum wage of ₹8,100/- came about only from April, 2015 and at the relevant time in February, it was only ₹5,000 and odd. We cannot look to assessment with such arithmetical position and that death 2 months earlier would have mattered all that much to assess the income. In all assessments to compensation, there is fair amount of approximation made and if a couple of months had he survived, he would have earned a minimum wage of not less than ₹8,100/- and there was nothing particularly wrong about the Tribunal in taking the said income.

3. The counsel also has an argument that the claimants 2 and 3, who are 20 and 19 years of age, ought not to be taken as dependents and 1/4$^{th}$ deduction when the sons had attained majority was wrong. No dependency ought to have been attributed to them. Social conditions in India dictate that the father takes care of the son even if he is a major till he is suitably settled in life. Such settlement does not normally take place even before 25 years if he had not been employed. I discard the argument that the major sons, who had just crossed the age of minority, ought not to be taken as dependents.

4. Yet another submission made is that the increase provided for a prospect of increase in income ought not to have been done. According to him, this issue is pending before the Supreme Court and the court was in error in providing for such a prospect.

So long as there is no particular judgment of the Supreme Court to deny such a prospect of increase in income, I will find nothing particularly wrong about the use of the judgments of the Supreme Court in ***Rajesh Versus Rajbir Singh-2013(9) SCC 54*** and ***Munna Lal Jain and another Versus Vipin Kumar Sharma and others-(2015) 6 SCC 347***. The Tribunals cannot fetter their own discretion to wait for uncertain date when there could be a judgment not allowing for such prospect.

5. The other objection taken is that the Tribunal has provided for ₹1 lakh as loss to estate. This provision has come through some decisions of the Supreme Court and though this court has itself attempted a discourse on what constitutes loss to estate in the judgment in ***Sanjida and others Versus Sanjay Kumar and others in FAO No.6803 of 2011, dated 11.01.2016*** as far as the Tribunals are concerned, if there is a judgment of the Supreme Court which can support the view that has been taken, it should be taken as tenable and the Insurance Company cannot be heard to contend that the provision made by the Tribunal was wrong. There ought to be some price for an insurer for its own indiscretion in not proposing appropriate settlement amounts at the time of trial. If it looks for its own convenient time for the Tribunal to conclude the proceedings, it always comes with a heavy price. The Insurance Company ought not to be permitted to even urge an appeal on quantum unless the

assessment is so outlandishly wrong, any interference ought not to be possible at the instance of the insurer. Section 149 of the Motor Vehicles Act shall, under normal circumstances, be the guiding spirit for all the Insurance Companies and beyond the said grounds, the insurer ought not to waste its own resources in needless litigation. The appeal is dismissed as requiring no intervention.

6. The amount which is deposited before this court is directed to be dispatched to the credit of the Tribunal for satisfaction of the amount due to the claimants.

**(K.KANNAN)**
**JUDGE**

29.01.2016
sanjeev