IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 7730 of 2015 (O&M)
Date of Decision : 16.03.2016

Reliance General Insurance Company Ltd. ....Appellant

Versus

Sunita Devi and others ....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

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

Surinder Gupta, J. (Oral)

This is appeal by Insurance Company (Reliance General Insurance Company Ltd.) against the award dated 21.02.2015, passed by the Motor Accident Claims Tribunal, Palwal (later referred to as 'the Tribunal') whereby compensation of ₹15,55,968/- was allowed on account of death of Sunil Rawat, husband of respondent no. 1-Sunita Devi, father of respondent no. 2-Ms. Kalpana and son of respondent no. 3-Smt. Patri, in a motor vehicle accident involving truck bearing registration No. HR-73-0804 and truck bearing No. HR-38-P-8270. The liability to pay the amount of compensation was apportioned between the owner and driver of both the trucks. Appellant being insurer of truck bearing registration No. HR-73-0804 has filed this appeal challenging the award.

2. Learned counsel for the appellant has assailed the award on two counts. Firstly, that there was no eye-witness account of the accident before the Tribunal and in the absence of

any eye-witness of the offence, the Tribunal has wrongly recorded findings that accident had taken place due to rash and negligent driving of drivers of both the vehicles. Secondly, he has argued that the Tribunal while computing the amount of compensation has also allowed addition of 50% in income of the deceased towards future prospects particularly when the matter is under consideration before the Hon'ble Apex Court in the reference made in case of ***National Insurance Company Limited Vs. Pushpa and others*** **Appeal (C) No.8058 of 2014 decided on 02.07.2014 (MANU/SC/1246/2014).**

3. The Tribunal while discussing the question of responsibility of drivers of both the vehicles has referred to award passed by the Motor Accident Claims Tribunal, Palwal in MACT No. RBT-174 of 2012 (Ex. P-2) wherein compensation for the death of cleaner of truck No. HR-38P-8270 was allowed against the vehicle insured with the appellant i.e. truck no. HR-73-0804. In that award dated 18.04.2014, the Tribunal had held that accident had taken place due to rash and negligent driving of driver of the offending truck No. HR-73-0804. That judgment operates as estoppel against the appellant. Learned counsel for the appellant has not been able to point out that any appeal against that judgment passed by the Tribunal at Palwal was preferred by the appellant. In view of this, first argument of learned counsel for the appellant carries no weight and is discarded.

4. 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."*

5. 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*** *(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*

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

6. 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 May 15, 2015 in case titled ***Munna Lal Jain and others vs. Vipin Kumar Sharma and others 2015 (3) RCR (Civil) 447,*** 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)***.

7. 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 deceased 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.

8. As the view taken in case of ***Rajesh (supra)*** has been followed by the Hon'ble Apex Court in ***Munna Lal Jain (supra)***, the Tribunal while computing amount of compensation awarded to claimants committed no error by allowing 50% addition of the income towards future prospects, as such, the second submission of learned counsel for the appellant is also discarded and no interference in the award on this score is called for.

9. No other point has been argued by learned counsel for the appellant.

10. This appeal has no merits. Dismissed.

March 16, 2016 **(SURINDER GUPTA)**
jk **JUDGE**