IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2072 of 2011
Date of Decision.22.12.2017

United India Insurance Company Limited ....Appellant

Vs

Sunita Devi and others ....Respondents

2. **FAO No.5248 of 2011**

Sunita Devi and others ....Appellants

Vs

Satish and others ....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vikas Mohan Gupta, Advocate
for the appellant in FAO No.2072 of 2011 and
for respondent No.3 in FAO No.5248 of 2011.

Mr. Sandeep Kotla, Advocate
for the appellants in FAO No.5248 of 2011 and
for respondent Nos.1 to 3 in FAO No.2072 of 2011.

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AMIT RAWAL J.(ORAL)

This order of mine shall dispose of two appeals bearing Nos.2072 and 5248 of 2011. The former is at the instance of the insurance company challenging the quantum of compensation and the latter at the instance of the claimants seeking enhancement of compensation against the award of ₹3,88,000/-.

Mr. Vikas Mohan Gupta, learned counsel appearing on behalf of the insurance company submits that the Tribunal grossly erred in taking the notional income as ₹15,000/- per annum for a boy aged 15 years whereas a lump sum compensation from ₹1.75 lacs to ₹2 lacs ought to have been awarded in case of deceased being of tender age, in view of the law

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settled by Hon'ble Apex Court and various High Courts. It wrongly applied the concept of future prospect in case of a minor whose income was not proved, therefore, the compensation awarded by the Tribunal is liable to be reduced.

Mr. Kotla, learned counsel appearing on behalf of the appellants-claimants submits that the deceased was working on a hawking shop, therefore, his income ought to have been taken as per minimum wages prevalent at the relevant time i.e. ₹2500/- per month. In view of the law laid down by the Hon'ble Supreme Court in ***National Insurance Company Ltd. Vs. Pranay Sethi and another 2017 ACJ 2700*** even a self employed person is entitled for increase as future prospects. The Tribunal also erred in applying a multiplier of 15 whereas it should have been 18, much less, nothing provided under the conventional heads, thus, there is a definite scope for enhancement.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is some force and merit in the submissions of Mr. Kotla. I will take the income of the deceased as ₹2500/- per month, provide an increase of 40% on the same as future prospects, apply a deduction of one half towards personal expenses and adopt a multiplier of 18 to assess the loss of dependency as ₹3,78,000/-. I will further add to it ₹15,000/- each towards funeral expenses and loss of estate. I will retain the medical expenses of ₹13,676/- as provided by the Tribunal.

In all, the compensation payable shall be ₹4,21,676/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @6% per annum from the date of filing the appeal till realization. The enhanced amount shall be distributed equally between the

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claimants. The liability shall remain the same as has already been determined by the Tribunal.

The award passed by the Tribunal is modified to the above extent. Resultantly, the appeal filed by the insurance company in FAO No.2072 of 2011 is dismissed and the appeal filed by the claimants in FAO No.5248 of 2011 is allowed.

(AMIT RAWAL)
JUDGE

December 22, 2017
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No

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