IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

644

FAO No.2656 of 2012 and
Cross Objections No.73-CII of 2012
Decided on : 31.10.2017

Bajaj Alianz General Insurance Company Ltd.

... *Appellant*

Versus

Harjit Kaur and others

.. *Respondents*

CORAM : HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present : Mr.Subhash Goyal, Advocate
for the appellants.
Mr.M.S.Longia, Advocate
for respondent No.1-Cross Objector.
None for respondents No.2 and 3.

Avneesh Jhingan , J. (Oral)

The present appeal and the cross objection arise out of the award dated 17.11.2011 passed by the Motor Accidents Claims Tribunal, Ropar (for short 'the Tribunal').

2. The Insurance company has challenged the quantum of amount awarded to the unfortunate mother who lost her son whereas cross objections are for enhancement of the amount.

3. The factual matrix of the case are that Gursewak Singh aged 19 years lost his life in a motor vehicular accident that occurred on 5.7.2010 between motorcycle bearing registration No.PB-12J-6801 and rashly and negligently driven truck bearing registration No.HP-28-2034.

4. The mother of the deceased moved a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short the Act) so that atleast whatever monetary benefits she is entitled, would be given to her.

5. The Tribunal after considering the material before it, awarded

a sum of Rs.5,70,000/- along with interest at the rate of 9% per annum.

6 Both the counsel have raised their arguments in favour of their appeal and cross objections. The net grievance on both the sides is that the loss of dependency has not been calculated as per the decision of the Apex Court in **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (civil) 77**. The grievances of both the sides are that the deduction of self expenses have not been correctly made and that multiplier has been wrongly applied. The Hon'ble Apex Court in Sarla Verma's case (supra) has held as under :-

> "The multiplier to be used should be as mentioned in column (4) of the Table above (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.
>
> Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply standardized deductions. Having considered several subsequent decisions of this court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependant family members is 4 to 6, and one-fifth (1/5th) where the number of dependant family members exceed six."

7. They have no objection if the said loss of dependency is recalculated as per the decision of the Apex Court.

8. Since there is no dispute with regard to monthly income of Rs.5000/- per month as assessed by the Tribunal, the same is taken as it is to calculate the loss of dependency.

5000 X 12=60,000/-

9 Since the deceased was unmarried 50% deduction for self expenses =60000-30000=30000. The deceased was aged 19 years at the time of the accident, a multiplier of 18 is applied.

Rs.30,000/- X 18= 5,40,000/-

10 The Tribunal awarded Rs.5000/- for funeral expenses and Rs.5000/- for loss of estate but the Tribunal has not considered the head of loss of love and affection. If the nominal amount of loss of dependency is awarded then there is no difference in the amount already assessed and now recalculated.

11 The Hon'ble Apex Court in case *D.M., Oriental Insurance Co. Ltd*. Vs. *Swapna Nayak and others*, 2017(3) SCC 598 has held as under:-

> "18) When we find that under one head, reasonable amount has been awarded and under another head, nothing has been awarded though it should have been so awarded and at the same time, we notice that eventual figure of the award of compensation payable to the claimants appears to be just and reasonable then in such eventuality, we do not consider it proper to interfere in such award in our appellate jurisdiction under Article 136 of the Constitution. In other words, if by applying the tests and guidelines, we find that overall award of compensation is just and fair, then, in our view, such award deserves to be upheld in claimants' favour. We find it to be so in the facts of this case having taken note of all relevant facts and circumstances of the case."

12 In view of the decision referred above and the reasons given above, since recalculation has not made any substantial difference in the amount, appeal and cross objections are dismissed with no costs.

[Avneesh Jhingan]
Judge

31.10.2017
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No