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

FAO No. 3778 of 2012
Date of Decision: November 15, 2017

National Insurance Company ...Appellant

Versus

Smt. Munesh and others ...Respondents

CORAM:- HON'BLE MR. JUSTICE B.S. WALIA.

Present:- Mr. Ashwani Talwar, Advocate for the appellant-Insurance Company.

Mr. Rajdeep Singh Cheema, Amicus Curiae for respondents No.1 to 4.

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B.S. WALIA, J. (Oral)

1. The Insurance Company has challenged compensation of ₹4,42,000/- awarded by the Motor Accident Claims Tribunal, Chandigarh, (hereinafter referred to as 'the Tribunal) to the parents, widow and minor children of deceased Jai Parkash and has sought reduction of dependency to 2/3rd as against 3/4th worked out by the Tribunal as also reduction of the amount of ₹10,000/- awarded towards conventional heads to ₹9500/- in terms of Note 3 to the Second Schedule to the Motor Vehicles Act, 1988

(hereinafter referred to as the 'Act').

2. Learned counsel for the appellant-Insurance Company contended that dependency had to be worked out after excluding personal expenses @ 1/3rd in terms of Note 1 to the Second Schedule of the Act. A perusal of Note 1 to the Second Schedule to the Act reveals that amount of compensation arrived at in the case of fatal accident claim is to be reduced by 1/3rd **in consideration of the personal expenses which the victim would have incurred towards maintaining himself had he been alive.**

3. Accordingly, the dependency worked out by the Tribunal at 3/4th is modified to 2/3rd on account of Note 1 to the Second Schedule of Act.

4. Learned counsel for the respondent/claimants contends that the deceased was 26 years of age and as per the Second Schedule to the Act in the case of age between 25 to 30 years, multiplier of 18 was applicable instead of 16.

5. A perusal of the Second Schedule to the Act reveals that where the deceased was between 25-30 years of age (in this case the deceased was 26 years of age) multiplier of 18 is applicable instead of 16. Accordingly, multiplier is enhanced from 16 to 18.

6. Learned counsel for the claimants-respondents further contends that the minimum wages payable to a labourer in U.T. Chandigarh during the

year 2009 was ₹3914/- per month, therefore, minimum of ₹3300/- per month was required to be taken into account as the income of the deceased.

7. Learned counsel for the appellant-Insurance Company admitted the fact that the minimum wages payable in the Union Territory, Chandigarh during the year 2009 was ₹3914/-.

8. I have considered the submissions of learned counsel for the parties and taking into account the fact that the minimum wages payable in the Union Territory,Chandigarh during the year 2009 was ₹3914/- as also the fact that the deceased would not have got work as a labourer for the entire month, it would be reasonable to assess the income of the deceased @ ₹3300/- per month.

9. Accordingly, as against the compensation of ₹4,42,000/- awarded along with interest @ 6% per annum to the claimants-respondents, the compensation now payable would be ₹3300/- x 12 x 18 x 2/3rd + 9500/- = ₹4,84,700/-

10. Accordingly, revised compensation payable is ₹4,84,700/- along with interest @ 6% per annum with effect from the date of filing of the claim petition till date of payment, less amount, if any, already paid.

11. Needless to mention that after making payment of the awarded

compensation to the claimants, the Insurance company would be at liberty to recover the same from the registered owner of the offending vehicle.

12. Accordingly, the appeal stands disposed of in the aforementioned terms.

(B.S. WALIA)
JUDGE

November 15, 2017
ps

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*