IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212 **X-Objection No.1-CII-2016 in/and FAO-6113-2012(O&M)**

Date of Decision:05.07.2017

ICICI Lombard General Insurance Company .....Appellant

Versus

Rehmat and others .....Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.

Present: Mr.Rajneesh Malhotra, Advocate,
for the appellant.

Mr.Ashish Gupta, Advocate,
for the cross-objectors-respondents.

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RAMESHWAR SINGH MALIK, J.(Oral)

Appeal as well as cross-objections are being decided together vide this common order, as the appeal as well as cross-objections are directed against the same impugned award passed by the learned Motor Accident Claims Tribunal (for short "the Tribunal").

Notice of motion was issued in the appeal and during pendency of the appeal, cross-objections were filed by the claimants.

Facts are hardly in dispute. It is suffice to note that the claimants are parents, sister and brother of the deceased. Monthly income of the deceased was assessed by the learned Tribunal as ₹4200/- P.M. It has gone unchallenged and undisputed before this Court at the hands of both the parties. It is so said because neither the claimants-cross-objectors are claiming any higher monthly income of the deceased, nor the appellant-

Insurance Company had disputed the said amount, which was assessed by the learned Tribunal as monthly income of the deceased.

The Insurance Company has come up in appeal before this Court only qua the multiplier pointing out that the multiplier ought to have been applied looking into the age of parents and not as per age of the deceased. On the other hand, the case pleaded and argued on behalf of the claimants is that the learned Tribunal failed to grant the benefit of future prospects to the extent of 50% of the monthly income of the deceased, which ought to have been awarded to the claimants.

Having heard learned counsel for the parties at considerable length, after going through record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that so far as the appeal of Insurance Company is concerned, it has been found without any substance and the same is liable to be dismissed. However, cross-objections filed on behalf of the claimants-respondents deserve to be partly allowed, suitably modifying the impugned award.

The only contention raised by learned counsel for the appellant-Insurance Company that the multiplier ought to have been applied as per the age of parents has not found favour with this Court, for the reason that the said contention has been found wholly misplaced, as the same is running contrary to the law laid down by the Hon'ble Supreme Court in **Rajesh and others Versus Rajbir Singh and others, 2013(3) R.C.R.(Civil) 170** and **Munna Lal Jain and another Versus Vipin Kumar Sharma and others, 2015(6) SCC 347.**

The relevant observations made by the Hon'ble Supreme Court in para 11 of its judgment in **Munna Lal Jain's case(supra),** which can be gainfully followed in the present case, read as under:-

> *"As far as future prospects are concerned, in* ***Rajesh and others V. Rajbir Singh and others, 2013(3) R.C.R.(Civil) 170: 2013(3) Recent Apex Judgments (R.A.J.) 659: (2013) 9 SCC 54,*** *a three-Judge Bench of this Court held that in case of self-employed persons also, if the deceased victim is below 40 years, there must be addition of 50% to the actual income of the deceased while computing future prospects. To quote:*
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> *Since, the Court in Santosh Devi case actually intended to follow the principle in the case of salaried persons as laid down in Sarla Verma case 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 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.*
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> *The deceased being of the age of 30 years, 50% is the required addition."*

In the same judgment of **Rajesh and others's case(supra),** the Hon'ble Supreme Court granted the benefit of future prospects to the extent of 50% of the monthly income of the deceased. No exceptional circumstances have been pointed out at the hands of learned counsel for the appellant-Insurance Company, as to why the law laid down by the Hon'ble Supreme Court in **Rajesh and others's case(supra),** would not be applicable in favour of the cross-objectors/claimants in the case in hand.

Thus, respectfully following the law laid down by the Hon'ble Supreme Court in **Rajesh and others's case(supra),** and reiterated in **Munna Lal Jain's case(supra)**, cross-objectors have been found entitled for the benefit of future prospects to the extent of 50% of the monthly income of the deceased and the impugned award is ordered to be modified accordingly.

So far as the amount of ₹5,000/- awarded towards funeral expenses and not granting any amount towards love and affection by the learned Tribunal, the impugned award has been found unsustainable on both these counts. It has again gone undisputed before this Court that the Hon'ble Supreme Court has awarded an amount of ₹25,000/- on account of funeral expenses in **Rajesh and others's case(supra)**.

In this view of the matter, cross-objectors-claimants are held entitled to receive an amount of ₹20,000/- more over and above what has been awarded by the learned Tribunal by way of impugned award on account of funeral expenses. Similarly, the cross-objectors-claimants are awarded an amount of ₹30,000/- on account of love and affection and the impugned award would stand modified accordingly. In addition to the above, the claimants-cross-objectors would be entitled for a sum of ₹2,26,800/- on account of 50% of the amount assessed by the learned Tribunal after applying correct multiplier on the monthly income of the deceased, on account of future prospects.

In view of the above, the claimants-cross-objectors would be entitled for a total amount of ₹2,76,800/-, break-up of which is ₹20,000/- on account of funeral expenses, after deducting ₹5,000/- already awarded, plus ₹30,000/- on account of loss of love and affection and ₹2,26,800/- on account of future prospects to the extent of 50% of the monthly income of the deceased.

The learned Tribunal has awarded the amount of compensation to the claimants-cross-objectors along with interest @ 6% per annum from the date of filing of the claim-petition till its realization, which has been found to be justified in view of the peculiar facts and circumstances of the case in hand.

Accordingly, the claimants-cross-objectors would be entitled to receive an amount of ₹2,76,800/- over and above what has been awarded to them by the learned Tribunal by passing the impugned award along with interest @ 6% per annum from the date of filing of the claim-petition till realization of the awarded amount.

Resultantly, with the above-said observations and modification in the impugned award, appeal as well as cross-objections stand disposed of.

July 05, 2017 **(RAMESHWAR SINGH MALIK)**
seema **JUDGE**

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