

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No.6273 of 2012 (O&M)
Date of decision: 11.09.2017

Reliance General Insurance Co. Ltd. ...Applicant/Appellant

Versus

Nihali Devi and others ...Respondents

FAO No.731 of 2013 (O&M)

Reliance General Insurance Co. Ltd. ...Applicant/Appellant

Versus

Hardayal and another ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Arun Sharma, Advocate for
Mr. T.K. Joshi, Advocate for the appellant/insurance company.

Mr. Rishi Pal Singh, Advocate for
Mr. Jaivir Yadav, Advocate
for respondent No.3 in FAO No.6273 of 2012 and
for respondent No.1 in FAO No.731 of 2013.

Mr. Abhishek Yadav, Advocate
for respondent No.2 in FAO No.6273 of 2012.

REKHA MITTAL, J. (Oral)

CM-29826-CII-2012 in FAO No.6273 of 2012

Heard.

For the reasons stated in the application supported by affidavit
of the applicant, the same is allowed. Delay of 32 days in filing the appeal

is hereby condoned.

CM-4779-CII-2013 in FAO No.731 of 2013

Heard.

For the reasons stated in the application supported by affidavit of the applicant, the same is allowed. Delay of 104 days in filing the appeal is hereby condoned.

Main Case

This order will dispose of FAO Nos.6273 of 2012 and 731 of 2013 as these have emerged out of the same award dated 28.07.2012 passed by the Motor Accidents Claims Tribunal, Rewari (hereinafter referred to be as 'the Tribunal').

Counsel for the appellant, at the outset, would inform that the appeals have been preferred by the insurance company to challenge quantum of compensation to the tune of Rs.2,82,200/- awarded by the Tribunal in regard to death of Moti Ram in a motor vehicular accident that took place on 19.11.2007. It has been argued that as Nihali Devi and Hardayal who filed separate applications for compensation were not dependent on deceased Moti Ram, the Tribunal has wrongly assessed loss of dependency to the tune of Rs.2,77,200/-.

Counsel representing the claimants has supported the award with the submission that Nihali Devi is the sister of Moti Ram and Hardayal is his real brother, therefore, they are the legal representatives of deceased Moti Ram to maintain application for grant of compensation by

invoking Section 166 of the Motor Vehicles Act, 1988 (in short 'the Act'). In support of his contention, he has referred to judgment of Hon'ble the Supreme Court **Gujarat State Road Transport Corporation Vs. Ramanbhai Prabhatbhai and another, 1987 (3) SCC 234**. Another submission made by counsel is that the Tribunal has not awarded adequate compensation under conventional heads.

I have heard counsel for the parties, perused the paper book particularly the award dated 28.07.2012.

Counsel for the insurance company has not disputed that Nihali Devi and Hardayal claimants are the legal representatives of deceased Moti Ram. That being so, the claimants can maintain an application for compensation in the light of judgment in Gujarat State Road Transport Corporation's case (supra).

The Tribunal has assessed income of the deceased at Rs.4200/- per month, deducted 50% for his personal expenses and applied a multiplier of 11 to compute compensation to the tune of Rs.2,77,200/-. In addition, an amount of Rs.5,000/- has been awarded for funeral expenses.

Counsel for the insurance company has failed to point out any materials on record that Hardayal younger brother of the deceased was not dependent upon income of Moti Ram who was unmarried and issueless. This apart, even if the claimants were not actually dependent upon income of the deceased they can certainly claim compensation qua loss to estate being heirs of deceased Moti Ram. The Tribunal has deducted 50% towards

personal expenses of the deceased to compute loss of dependency. Compensation awarded under conventional heads is too meager. The Tribunal has not awarded any compensation for loss of love and affection and loss of estate, whereas compensation for expenses on funeral is required to be Rs.25,000/-.

Taking a cumulative view of the facts and circumstances discussed hereinbefore, I find myself unable to agree with the submissions made by counsel for the insurance company that compensation assessed by the Tribunal is on higher side and warrants reduction.

For the foregoing reasons, the appeals fail and are accordingly dismissed.

11.09.2017
ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No