IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO Nos. 1806 of 2013 (O&M)
Date of Decision: March 01, 2017

Angrej Kaur and others

..Appellant(s)

Versus

Mandeep Singh and others

...Respondent(s)

with

FAO Nos. 1813 of 2013 (O&M)

National Insurance Co. Ltd.

..Appellant(s)

Versus

Angrej Kaur and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Mukand Gupta, Advocate
for the appellants in FAO-1806-2013 and
for respondents no.2 & 3 in FAO-1813-2013.

Ms. Vandana Malhotra, Advocate
for the appellant in FAO-1813-2013 and
for respondent no.3 in FAO-1806-2013.

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ANITA CHAUDHRY, J.

These are two appeals, one filed by the claimants and the other by the insurance company aggrieved by the award dated 27.11.2012, passed by the Motor Accidents Claims Tribunal, Bathinda. The claimants are seeking enhancement whereas the insurance company is seeking reduction in the amount.

A petition was filed with respect to the death of Nazar Singh, he was 52 years old. He met with an accident on 05.04.2009 and died on 14.10.2009. The deceased was a Head Constable with the Punjab Police and was drawing salary of Rs.24,447/- per month. The Tribunal made a deduction of 50% as it was noted that the claimant were the aged mother, 78 years and two children who were major. The wife was living separately and was divorced. Multiplier of 7 was applied to calculate the compensation to be Rs.10,92,000/-. In addition, a sum of Rs.5,000/- was allowed for loss of estate and a sum of Rs.5,000/- was allowed for the funeral expenses. It noted that the cost of the treatment was more than Rs.16.5 lacs, out of which the Department had passed the medical bills for Rs.10,47,739/- and after adjusting that amount, the claimants were held to be entitled to Rs.6,03,000/- (rounded off) as medical expenses. A sum of Rs.20,000/- was added for special diet, transportation, pain & suffering, raising the total to Rs.17,25,000/-. The amount was apportioned and the major amount of about Rs.10 lacs was allowed to claimant no.3, the daughter and Rs.5 lac to the son and the remaining amount for the mother.

The submission on behalf of the claimant was that the multiplier should have been 11 considering the age of the deceased and the deduction towards personal expenses should have been 1/4th instead of half. It was urged that no interest was awarded if the amount was paid within three months and they should have been allowed interest in entirety.

The submission of the insurance company was that the Tribunal failed to deduct the income tax and they are disputing the amount of the bills which were not paid by the Department and there is no reason why those bills were excluded and the claimants had to prove that they had spent that amount. It was urged that the official who had been summoned had only stated that they had submitted bills of more than Rs.16.5 lacs. However, after scrutiny and as per government rates and rules only a sum of Rs.10.47 lacs had been passed. It was urged that the original medical bills submitted if any, were not produced, therefore, it was to ascertain that the expenditure on the medicines was over Rs.16.5 lacs and the Tribunal could not have allowed the excess amount and the onus was upon the claimants.

A perusal of the record shows that the bills of Rs.16.5 lacs i.e. the amount said to have been spent on the treatment were not produced. The claimants had summoned the record from the office and the only material available is the amount that was sanctioned. The witness did not get the original bills, submitted nor the claimants had sought adjournment to summon that record. The claimants had failed to produce any material to show that the expenditure on the treatment was Rs.16.5 lacs. Therefore, the claimants were not entitled to the sum of Rs.6,03,000/-.

It is not in dispute that the claimants are the aged mother and the two children. A deduction of 50% had been made. Both the children were major and the deduction of 50% was rightly made, however, the multiplier was not correctly applied. Since the deceased was 52 years old, the multiplier applicable would be 11 and the calculation have to be made all over again. The monthly salary was Rs.24,447/- per month. After a deduction of 50%, the amount available for the family would be Rs.12,223.50/- per month, for the purposes of calculations it is taken as Rs.12,500/- per month. The annual contribution would be Rs.1,50,000/- and applying the multiplier of 11, the compensation would come to Rs.16,50,000/-. To this, a sum of Rs.25,000/- more is added for loss of estate and a sum of Rs.25,000/- is added for funeral expenses, which raises the total to 17,00,000/-. This is the amount which was payable by the insurance company after deducting income tax @ 10%. The remaining amount if any would be paid at the same rate of interest as awarded by the Tribunal, if not already deposited from the date of filing of appeal i.e. 19.03.2013.

The award is modified to the extent noticed above.

Both the appeals are disposed of.

(ANITA CHAUDHRY)
JUDGE

March 01, 2017
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No