In the High Court of Punjab and Haryana at Chandigarh

XOBJEC No. 98-CII of 2013 in/and
F.A.O No. 2370 of 2013 (O&M)
Date of Decision: 14.7.2017

Reliance General Insurance Company Ltd. ....Appellant

Versus

Paramjit Kaur and others ....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Subhash Goyal, Advocate
for the appellant.

Mr. Pankaj Katia, Advocate
for respondents No. 1 to 5.

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ANITA CHAUDHRY, J

Reliance General Insurance Company has filed this appeal whereas the cross-objections have been filed by the claimants against the award dated 8.1.2013 passed by the Motor Accident Claims Tribunal, SAS Nagar, Mohali.

The application was allowed subject to payment of Rs. 5,000/- as costs and it was made clear on 17.10.2016 that in the event of costs not being deposited the appeal as against respondent No. 7 shall be deemed to be dismissed.

The case was adjourned on the last hearing again giving one more opportunity but still the costs have not been deposited.

The appeal as against respondent No. 7 is dismissed.

Counsel for the appellant states that he was not pressing the DL issue and it is only the issue of quantum which they are challenging.

The insurance company is disputing the addition of 30%

towards future prospects since the deceased was 50 years of age whereas the claimants are seeking enhancement and their plea is that the multiplier was not correctly applied and the deduction of 1/3rd was wrongly made and are also seeking addition on the miscellaneous heads.

Few facts are necessary. Daljit Singh was 52 years old when he met with an accident on 10.6.2010. The claim petition was filed by his widow and two major sons and daughter who was 18 years old. The deceased was stated to be employed privately and earning Rs. 15,000/- per month. The Tribunal considered the income of the deceased to be Rs. 8,000/- per month and made an addition of 30% and the total amount for computation was taken as Rs. 10,400/- per month. A deduction of 1/3rd was made and the multiplier of 11 was applied. Rs. 10,000/- was allowed as funeral expenses, Rs. 10,000/- as loss of consortium and Rs. 5,000/- for transportation. The total claim allowed was Rs. 9,40,288/-.

The submission on behalf of the insurance company is that the claimants had mentioned the age of the deceased as 52 years in the claim petition and the Tribunal had taken the age written in the post-mortem report and since the deceased was over 50 years of age, therefore, there could be no addition towards future prospects not only on account of his age but also because he was not in a permanent job and the amount will have to be recalculated.

The submission on behalf of the claimants is that the deceased was only 43 years old as mentioned in the post-mortem report. He states that though in the driving licence the date of birth was mentioned as 1.4.1958 but it was a wrong date.

I find that a correction had been made in the claim petition and the age of the deceased was mentioned as 52 years. The date of birth recorded in the driving licence is 1.4.1958. A copy of it has been placed on record today. As per the case of ***Sarla Verma v. DTC, (2009) 6 SCC 121,*** no addition towards future prospects should have been made since the deceased was over 50 years. Therefore, the deduction will have to be made and the calculations will have to be made again keeping in view the income of the deceased to be Rs. 8,000/- per month. Since the deceased had left behind five legal heirs, therefore the deduction would be 1/4th instead of 1/3rd and the calculations will be made taking the income to be Rs. 6,000/- x 12 x 11 = 7,92,000/-. I find that the addition on the miscellaneous heads is on the lower side. Therefore, I would add Rs. 90,000/- more for loss of consortium, Rs. 15,000/- more for funeral expenses and Rs. 1,00,000/- for loss of estate. The total of this comes to Rs. 9,97,000/-. The Tribunal has already allowed Rs. 10,000/- as funeral expenses, Rs. 10,000/- as loss of consortium and Rs. 5,000/- for transportation. The total amount payable would be Rs. 10,22,000/-. The Tribunal had awarded Rs. 9,40,288/- which would be deducted and the balance amount i.e. Rs. 81,712/- would be payable to the claimants with interest @ 6% from the date of filing of the appeal till the amount is actually paid.

The appeal as well as the cross objections are partly allowed.

(ANITA CHAUDHRY)
JUDGE

July 14, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No