IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

224 XOBJC-63-CII-2016 (O&M) in FAO No.2090 of 2014

Date of decision: 09.12.2019

SHRI RAM GENERAL INSURANCE CO. LTD. .. Appellant

Versus

BALA DEVI & ORS .. Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sanjeev Goyal, Advocate for the insurance company.
Mr. Rahul Deswal, Advocate for the claimants/cross objectors.
None for the owner.
****

REKHA MITTAL, J. (Oral)

CM No.5277-CII of 2016

Prayer in this application is for condonation of delay of 871 days in refiling the cross objections.

In view of averments made in the application supported by an affidavit of counsel for the cross objectors coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 871 days in refiling the cross objections is condoned subject to the condition that the claimants shall forgo interest for the period of delay, in case compensation is enhanced.

Cross Objection

The claimants have filed cross objections in FAO No.2090 of 2014 for enhancement of compensation assessed by the Tribunal.

Counsel for the cross objectors would inform that though the appeal preferred by Shri Ram General Insurance Co. Ltd. (hereinafter referred to as 'the insurance company') has already been disposed of but cross objections filed by the claimants were left to be decided.

Counsel representing the insurance company concedes to this fact.

The Tribunal awarded Rs.5,88,160/-, detailed hereunder:-

Monthly income of the deceased	Rs.3840/-
Multiplier	18
Deduction for personal expenses	1/3rd
Loss of dependency	Rs.5,78,160/-

Expenses on funeral	Rs.5000/-
Loss of consortium	Rs.5000/-

Counsel for the cross objectors would argue that income of the deceased assessed by the Tribunal is on lower side and merits enhancement. Adequate compensation may be allowed by extending benefit of addition in income for future prospects as well as under conventional heads.

Counsel representing the insurance company, on the contrary, has supported assessment made by the Tribunal.

The plea of claimants is that deceased was working as security guard at salary of Rs.3480/- per month. He was also running dairy business thereby earning Rs.10,000/- per month. They examined Jai Parkash proprietor of Optional Services, Karnal to prove employment and income of the deceased as a security guard. However, they did not adduce any clear much less cogent evidence on record to prove that deceased was involved in dairy business and had earning therefrom. In the given circumstances, there is no justification for allowing additional compensation with regard to monthly income of the deceased. Claimants shall be entitle to addition in income for future prospects @ 40%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.7,74,144/- [(3840 x 12 x 18) + (40% future prospects) – (1/3rd deduction for personal expenses)].

Under conventional heads, compensation allowed is modified to the effect that claimants shall be entitle to Rs.70,000/-, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

Total compensation is Rs.8,44,144/- and additional amount is Rs.2,55,984/- (8,44,144 - 5,88,160), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 871 days in refiling the cross objections.

Perusal of the award would reveal that the Tribunal awarded Rs.3 lakh (Rs.1.5 lakh each) to parents of the deceased and remaining amount was paid to widow of the deceased. Counsel for the cross objectors, in response to a query, is not in a position to reveal if widow of the deceased has re-settled in life since marriage was performed just 2½ months prior to the unfortunate accident resulting in abrupt termination of life of deceased. At the same time, widow of the deceased did not file an appeal. In the given circumstances, out of additional amount, 75% shall be paid to mother of the deceased and 25% to widow of the deceased.

For the foregoing reasons, cross objections are partly allowed in the aforesaid terms. A copy of the judgment be sent to widow of the deceased for realization of her share of additional compensation.

09.12.2019 **(REKHA MITTAL)**
ashok **JUDGE**

Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No