IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No. 2224 of 2014 (O&M)

United India Insurance Company Ltd. Vs. Kulwinder Kaur and others.

Present: Mr. D.S.Adlakha, Advocate
for the appellant.

Mr.K.K.Jain, Advocate
for respondent Nos. 1 & 2.

Mr.Ankit Aggarwal, Advocate
for Mr.Anupam Singla, Advocate
for respondent Nos. 3 & 4.

FAO No. 9073 of 2014 (O&M)

Kulwinder Kaur and others Vs. Surjit Singh and others.

Present: Mr.K.K.Jain, Advocate
for the appellants.

Mr.Ankit Aggarwal, Advocate
for Mr.Anupam Singla, Advocate
for respondent Nos. 1 & 2.

Mr. D.S.Adlakha, Advocate
for the Insurance company-respondent No.3.

Date of Decision: February 14, 2017

CORAM: HON'BLE MR.JUSTICE RAJAN GUPTA

Rajan Gupta, J (Oral)

Present order will dispose of two appeals one preferred by the Insurance company impugning the order and the other filed by the claimants seeking enhancement.

On 6.5.2013, claimant Kulwinder Kaur received a telephonic call that maruti car of her husband had struck with a truck and he died in the accident. Matter was reported to the police. An eye witness namely, Jarnail Singh naratted the matter in which accident took place. A claim petition was filed thereafter before the tribunal. During the proceedings, it framed two main issues; whether accident had taken place due to rash and negligent driving driven by the driver of truck, if so, what is the compensation claimants would be entitled to. On the basis of clinching evidence, it came to the conclusion that accident had occurred due to fault of driver of the truck. While assessing compensation, it examined the evidence with regard to income of the deceased who was about 57 years of age at the time of his death. Number of documents were produced. One of the witnesses i.e. Rishi Bhardwaj produced by the claimants deposed that deceased was an employee of Quality Cafe, Chandigarh and produced salary statement Ex.PW3/C. He also produced attendance certificate of the deceased as marked as PW3/D and PW3/H. During cross examination, he stated that the deceased was being paid in cash. Insurance company has assessed the finding as regards the amount of salary. According to counsel, there is no tangible proof in support of same. On the other hand, counsel for the appellants have prayed that enhancement for compensation on various grounds including future prospects if any. He has further submitted that claimants have produced original pass book Ex.P/17 of the deceased before the tribunal which showed entry of Rs.25,000/- to Rs.30,000/- every month.

After hearing learned counsel for the parties, I am of the view that no interference in appellate jurisdiction of this court is called for. On the basis of available evidence, tribunal rightly assessed the income as

Rs.25,000/- after deducting 1/3rd thereof as personal expenditure and by applying multiplier of 9, it arrived at figure of Rs.14,14000/-. I uphold this finding. Even if, plea of the claimants is accepted that some enhancement is required to be made, it may have to be set off against slight deduction which the insurance company may be entitled to. In the circumstances, both the appeals are without any merit and same are hereby dismissed. Besides, order passed way back in the year 2013 amount may have been disbursed to the claimants immediately thereafter.

CM Nos. 7967-68 & 24926 CII of 2014

Since the main appeals have already been dismissed, no order needs to be passed in these applications.

(Rajan Gupta)
Judge

February 14, 2017.
BB

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