In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 3738 of 2014
Date of Decision: 15.12.2017

National Insurance Co. Ltd. ......Appellant

Versus

Priyanka and others ....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Lalit Garg, Advocate
for the appellant.

Ms. Bhavna Grewal, Advocate for
Mr. S.K.Yadav, Advocate
for respondents No. 1 to 4/claimants.

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ANITA CHAUDHRY, J

This appeal is by the insurance company on the quantum of compensation allowed to the claimants.

The submission on behalf of the appellant is that the Tribunal could not have taken the income more than the minimum wages for an unskilled labourer and the even after an addition of 40% is made as per the latest judgment, the amount would be much less than what has been allowed by the Tribunal. The counsel submits that the Tribunal had given increase of 50% whereas it should be 40% as per ***Pranay Sethi***'s case.

The submission on the other hand is that the income was rightly taken at Rs. 6,000/- and has supported the judgment. The counsel had also submitted that there were some expenses made on medical expenses and they had been allowed some amount for transportation, attendant charges and special diet as the deceased had died nine months after the accident.

The record shows that a sum of Rs. 4,59,998/- had been spent on the medicines. The Tribunal had allowed a sum of Rs. 4,63,000/- as treatment expenses and Rs. 20,000/- for transportation, Rs. 20,000/- for attendant and Rs. 15,000/- for special diet.

There was no evidence with respect to the income, therefore, minimum wages should have been taken which were Rs. 4850/- per month. Making an addition of 40%, the amount would be Rs. 6790/-. Making a deduction of 1/4th, the amount available for the calculations would be Rs. 5093/- and the compensation would be Rs. 5093 x 12 x 17 = 10,38,972/-. Adding Rs. 70,000/- (Rs. 40,000/- for loss of consortium, Rs. 15,000/- for funeral expenses and Rs. 15,000/- for loss of estate), the amount comes to Rs. 11,08,972/-. The total amount would be Rs. 11,08,972 + 5,18,000 (4,63,000/- + 20,000/- + 15,000/- + 20,000/-) = 16,26,972/-. This is the amount which was payable to the claimants. The amount paid in excess would be returned by the claimants within two months failing which the insurance company would be entitled to interest @ 6% from the date of order.

The appeal is allowed.

(ANITA CHAUDHRY)
JUDGE

December 15, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No