IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4548 of 2013(O&M)
Date of Decision: 08.09.2017

Oriental Insurance Company Ltd. ...Appellant

Vs.

Hardeep Singh and Others ...Respondents

CORAM:-HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Abhinandan Pandhi, Advocate, for
Ms. Manjari Nehru Kaul, Advocate,
for the appellant.

Mr. Manpreet Singh Longia, Advocate,
for respondents No. 1 to 3.

Mr. Diwan S. Adhlakha, Advocate,
for respondent No.4.

RAJIV NARAIN RAINA, J. (Oral)

1. Heard the learned counsel for the respective parties in the instant insurance appeal against the award of the Motor Accident Claims Tribunal, Ropar dated May 27, 2013. The deceased was a 7 year old boy studying in Class II. He died in the fatal accident succumbing to injuries received on his person when he was on his way to school on foot and was hit by the offending Bolero vehicle No. PB-12K-1894 on May 02, 2012. His parents claimed compensation in a sum of ₹20 lakh. The Tribunal considered standard compensation as per schedule by adopting formula of multiplier and minimum wage per month fixed on DC rates for labour. The amount was multiplied by factor of 1.5 to make it ₹6,402/- per month. The Tribunal held that it could safely be assumed that the deceased Harmanpreet Singh as an adult would have earned at least as much as his father who was a labourer, if not more. The Tribunal further reasoned that the contribution could not have

exceeded half of the income. Accordingly, half of ₹6,402/- was assessed to provide a monthly figure of ₹3,201/- and annualize it at ₹38,412/-. This multiplicand was multiplied by 15 multiplier in terms the second schedule of Motor Vehicles Act, 1988, to arrive at a sum of ₹5,76180/- and added to it an amount of ₹30,000/- towards compensation for expenses towards funeral and last rites.

2. In addition, the Tribunal awarded ₹10,000/- for loss of love and affection and the grand total was ordered to earn interest @ 6% per annum. The total figure worked out is ₹616180/- payable alongwith interest from the date of institution of claim petition i.e June 02, 2012. The Insurance Company and the driver of the offending vehicle were made jointly and severally liable for the compensation.

3. It is apparent that the amount awarded towards loss of love and affection is on the lower side and would normally deserve to be enhanced to ₹1 Lakh to bring it in tune with the *Rajbir* decision of the Supreme Court in this regard. The rate of interest also appears to be on the lower side and deserves to be enhanced to the current usually applied rate of interest @ 7.5% per annum simple.

4. However, the claimant-respondents are not in appeal but since *ex facie* they appear to possess the distinct right to these amounts by enhancement; then this Court would apply the principles in Order 41 Rule 33 CPC in appeal to do substantial justice between the parties. Needless to say that I am not convinced by any of the arguments raised by the Insurance Company for wiping out or reducing the amount awarded and impugned in this appeal which in fact deserves to be enhanced. I have no reason to tinker

with the award of the Tribunal to scale it down, which is justified on all parameters of award of compensation and the principles applied in a case of and unfortunate death of a child, except to modify the award to accommodate the amount of enhancement.

5. As a result of the above discussion, this petition stands dismissed and the award is modified inasmuch as compensation for love and affection is increased by ₹90,000/- and the rate of interest will be pushed to 7.5% per annum from the date of claim petition till payment since this Court is *suo motu* enhancing compensation for love and affection by ₹90,000/- then this sum of ₹90,000/- would not earn interest and the amount will be paid on lump sum basis. Accordingly, the interest under other heads of the award will run as ordered above, that is, carrying rate of interest of 7.5% per annum.

(RAJIV NARAIN RAINA)
JUDGE

08.09.2017
neeraj

Whether speaking/reasoned *Yes*

Whether reportable *No*

Neeraj
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