IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3633-2015 (O&M)
Date of decision: 12.09.2017

RELIANCE GENERAL INSURANCE COMPANY LTD
...Appellant

Versus

SARLA DEVI AND ORS
...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. R.K. Bashamboo, Advocate for the appellant.

Mr. Ashit Malik, Advocate for respondents No.1 to 4.

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REKHA MITTAL, J. (Oral)

The insurance company has directed this appeal against the award dated 23.02.2015 passed by the Motor Accidents Claims Tribunal, Rohtak (hereinafter to be referred as 'the Tribunal').

The Tribunal awarded compensation to the tune of Rs.37,30,680/- detailed hereunder:-

Sr. No.	Heads	Calculation (in Rs.)
(i)	Salary	16,230/- per month
(ii)	50% of (i) above to be added as future prospects	16,230 + 8115 = 24,345/-
(iii)	1/3rd of the (ii) deducted as personal expenses of the deceased	24,345 – 8115 = 16,230/-
(iv)	Compensation after multiplier of 18 is applied	16,230 x 12 x 18 = 3505680/-
(v)	Loss of consortium	1,00,000
(vi)	Loss of love and affection for the petitioner No.2 daughter	50,000/-

Sr. No.	Heads	Calculation (in Rs.)
(vii)	Loss of love and affection for the widow petitioner No.1 and for mother petitioner No.3	50,000/-
(viii)	Funeral expenses	25,000/-
	Total compensation awarded	37,30,680/-

The sole submission made by counsel for the appellant is that as deceased Sachin Kumar was working as Constable in the Police Department of State of Haryana, family of the deceased shall be entitled to financial assistance of a sum equal to the pay and other allowances last drawn by the deceased for a period of 15 years under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 (hereinafter to be referred as 'the Rules of 2006') and the said amount is liable to be deducted from the compensation assessed by the Tribunal. For this purpose, he has referred to judgment of Hon'ble the Supreme Court **Reliance General Insurance Co. Ltd. Vs. Shashi Sharma, 2016(4) RCR (Civil) 569.**

Counsel representing the claimants, on the other hand, would urge that had the Rules of 2006 been not in existence, family of the deceased would have been entitled to pension, not amenable for deduction from compensation assessed under Motor Vehicles Act, 1988. In addition, it is argued that compensation assessed by the Tribunal under conventional heads needs enhancement.

I have heard counsel for the parties, perused the paper book particularly the award dated 23.02.2015.

The Tribunal has assessed income of the deceased at Rs.16,230/- and added 50% for future prospects to compute monthly loss of income to the tune of Rs.24,345/- and the annual income comes to Rs.24,345 x 12 = 2,92,140/-. The income tax liability is Rs.9490/- per annum. After deducting income tax liability, annual income for loss of dependency comes to Rs.2,82,650. By deducting 1/3rd for personal expenses and applying multiplier of 18, loss of dependency comes to (Rs.2,82,650 x 18 – (1/3 thereof)) Rs.33,91,800/-.

Compensation awarded by the Tribunal for loss of consortium to widow Rs.1 lakh and Rs.25,000/- for funeral expenses are affirmed. The minor daughter of the deceased shall be entitled to Rs.1,00,000/- for loss of love and affection and care and protection of her father. An amount of Rs.50,000/- for loss of love and affection to the widow and mother of the deceased would be treated as loss of love and affection to the mother only. The claimants shall be entitled to Rs.25,000/- for loss of estate. In this manner, total compensation comes to Rs.36,91,800/-.

Family of the deceased shall be entitled to last pay drawn at Rs.16,230/- per month for a period of 180 months and the amount comes to Rs.16,230 x 180 = 29,21,400/-. Hon'ble the Supreme Court in the judgment cited by counsel for the appellant has held that any benefit derived by family of the deceased employee of Haryana Government under the Rules of 2006 shall be deducted from the compensation assessed under the Motor Vehicles Act, 1988. The deceased joined service on 03.08.2007 and his service is not pensionable as per rules. The entire amount of

Rs.29,21,400/-, payable as compassionate assistance is to be deducted from compensation assessed. In this manner, the claimants are entitled to compensation of Rs.7,70,400/- (36,91,800 – 29,21,400), thus, compensation is reduced to the extent of Rs.29,60,280/- (37,30,680 – 7,70,400). The insurance company shall be entitled to recover the amount paid in excess of Rs.7,70,400/- by filing an application before the Tribunal.

The appeal is allowed in the aforesaid terms.

12.09.2017 **(REKHA MITTAL)**
ashok/sd **JUDGE**

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