IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 5077 of 2015 (O&M)
Date of Decision: October 09, 2017

New India Assurance Company Ltd. ..Appellant(s)

Versus

Poonam and others ...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. R.C. Gupta, Advocate
for the appellant.

*****

ANITA CHAUDHRY, J.

The counsel for the appellant fairly concedes that a connected FAO had been dismissed and the SLP filed by the insurance company was also dismissed on 17.10.2016.

Limited notice had been issued in this case only with respect to the deduction. The co-ordinate Bench had noted the following:-

> *Heard.*
>
> *Learned counsel for the appellant argues that the claim petition was filed by wife, minor children and parents of the deceased. Father, aged 46 years old, was not a dependent on the income of the deceased but the Tribunal while making deductions towards personal expenses of the deceased has deducted 1/4th of his income instead of 1/3rd. The point, as to whether father is to be taken as dependent on the income of the deceased, is to be determined in this appeal.*
>
> *Notice of motion to this extent only for 18.05.2016.*
>
> *Execution of the impugned award shall remain stayed subject to deposit of Rs.15 lacs within six weeks which on deposit will be paid to the claimants in due course without calling for any surety.*

Notice was given to the respondents but none of the respondents had put in appearance.

Counsel for the appellant urges that the claim petition had been filed by the widow and her minor child and the parents of the deceased were also the claimants and the father could not be dependent on the son as he was just 46 years old and the deduction towards personal expenses would not be 1/4th and should have been 1/3rd.

The Tribunal had made the deduction of 1/4th. The father was not dependent, therefore, the deduction should have been 1/3rd and the calculations will have to be made again.

The income was taken as Rs.10,050/- per month and if a deduction of 1/3rd is made, the amount available for the family would be Rs.6,700/- per month and the amount that was payable was 6700 x 12 x 18 = Rs. 14,47,200/-. After adding a sum of Rs.2,25,000/- on account of miscellaneous heads i.e. consortium, love and affection and funeral expenses, the total of this comes to Rs.16,72,200/- (14,47,200 + 2,25,000). This is the amount which was payable to the claimants with interest.

The appeal is partly allowed and the award is modified.

(ANITA CHAUDHRY)
JUDGE

October 09, 2017

sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No