IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

XOBC-190-C-II-2016(O&M) in
FAO No. 7391 of 2015
Date of Decision: 23.08.2017

Magma HDI General Insurance Company ...Appellant

Vs.

Veer Bhan & others ...Respondents

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

Present: Ms. Vandana Malhotra, Advocate,
for the appellant.

Mr. Anupam Singla, Advocate,
for respondents No. 1 to 4.

RAJIV NARAIN RAINA, J. (Oral)

1. This order will dispose of the main appeal as well as the cross-objections of the respondents as common issues are involved.

2. Finding of rash and negligent driving has been recorded in the impugned award and the plea of the Insurance Company has been over-ruled. The Insurance Company disputed the registration number of the truck and also disputed claimants' plea that the offending vehicle was not at all involved in the accident. I have no reason to disagree with the findings on both points dealt with by the Tribunal after appreciating the evidence on record.

3. There is no evidence as to the avocation of the deceased except the statement of claimants simply that he was working as a driver earning ₹ 10,000/- per month. The deceased was 27 years when he died as a result of injuries sustained in the accident which took place on 04.02.2013. No material particulars are pleaded as to what kind of vehicle did he ply.

Whether he held a valid driving license? The record is silent. If the claimant was unable to produce definite evidence then the Insurance Company may not be wrong in insisting that assessing income @ ₹ 7,500/- would be excessive and it should be scaled down to the minimum rates of wages for unskilled workers w.e.f 01.03.2013 issued by the Labour Department Punjab on 15.03.2013 down to either unskilled or semi-skilled work which is ₹ 5200 and ₹ 5980 respectively. These wages were enhanced w.e.f 01.03.2013 to ₹ 5695 and ₹ 6475 respectively for scheduled employment. Taking that the employment was semi-skilled an average of ₹ 5980 and ₹ 6475 appears to be inappropriate method to determine the income of the deceased to apply for working out the compensation since the accident occurred on the cusp of the period falling between 01.09.2012 and 01.03.2013. The figure when calculated in this manner comes to ₹ 5980 and ₹ 6475 comes to ₹ 6200/-.

4. Accordingly, the income assessed is modified from ₹ 7,500/- to ₹ 6200/-. The deceased was unmarried. To make it clearer, the calculation is tabulated as under:

1.	Income Assessed	-	₹6200/- PM
2.	Dependency 50% (Bachelor)	-	₹3100/- PM
3.	Annual Income (x12)	-	₹37200/- PA
4.	Multiplier (Age 27 Yrs)	-	17
5.	Dependency	-	₹37200/- x 17 ₹6,32,400/-
6.	Future Prospects 50% addition (₹3,16,200/-)	-	₹632400 + ₹316200
	Total		₹9,48,600/-
7.	Funeral Expenses	-	25000/-
8.	Loss of Love & Affection	-	1,00,000/-

Neeraj
2017.09.11 12:05

	Grand Total		₹10,73,600/-

5. As a result, the appeal is partly allowed to the extent of reduction in assessment of income and the amounts as per tabulation above are awarded. The appellant would have recovery rights against the owner and driver of the offending truck. The other parts of the award are affirmed including enhanced interest from 6% to 7.5% as usually granted from date of the petition till realization.

6. With these observations and directions, the appeal is disposed of. The cross-objections are partially allowed to the extent indicated above.

7. The impugned award of the learned Motor Accident Claims Tribunal, Patiala dated 10.08.2015 is modified as per tabulation in paragraph 4 with interest increased as above.

(RAJIV NARAIN RAINA)
JUDGE

23.08.2017
neeraj

Whether speaking/reasoned *Yes.*

Whether reportable *No*

Neeraj
2017.09.11 12:05