In the High Court of Punjab and Haryana at Chandigarh

CM-6842-CII-2016 IN/AND
Cross Objection-89-CII-2016 IN/AND
F.A.O No. 9520 of 2014 (O&M)
Date of Decision: 16.11.2017

Shri Ram General Insurance Company Limited ......Appellant

Versus

Tejbir @ Rinku and others ....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Rajbir Singh, Advocate
for the appellant.

Mr. Gautam Kaile, Advocate for
Mr. Ashwin Antil, Advocate
for respondent No. 1-cross objector.

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ANITA CHAUDHRY, J

CM-6842-CII-2014 IN/AND CROSS OBJECTION-89-CII-2014

The cross objections have been filed with a delay of 365 days. The claimants had the knowledge of the pendency of the appeal filed by the insurance company. The reasons given by the cross-objector that they were waiting for the compensation awarded by the Tribunal and since the appellant was not paying therefore the delay took place. The cross-objections can be filed within 30 days of service of notice. The cross-objections have been filed after a delay of 365 days. The delay cannot be condoned.

The application as well as the cross-objections are dismissed

FAO-9520-2014

The insurance company has filed this appeal pleading that the

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amount allowed to the claimant was on the higher side.

Few facts are necessary. Kavita was 22 years old. She died in an accident in April 2011. Her husband had filed a claim petition seeking compensation. It was pleaded that she was doing knitting and tailoring work at her residence and used to earn Rs. 10,000/- per month. The claimant failed to lead any evidence but the Tribunal took the income of the deceased to be Rs. 4500/- per month and made an addition of 50% towards future prospects and made a deduction of 1/3rd and applied multiplier of 18 and calculated the compensation to be Rs. 9,72,000/-. A sum of Rs. 25,000/- was allowed for funeral expenses, Rs. 1,00,000/- for loss of consortium and Rs. 25,000/- for pain and loss of suffering and the total claim of Rs. 11,22,000/- was allowed.

The submission on behalf of the appellant is that the income had not been proved and the only claimant was the husband and deduction of 1/3rd has been made which should be half. It was urged that since there was no evidence with respect to the income at the most, she could have been taken as a housewife and the notional income should have been taken and no addition towards future prospects should have been made.

The Tribunal had assessed the income of the deceased at Rs. 4500/- per month for which I would make no change. In view of the latest judgment of the Apex Court in ***National Insurance Company Limited versus Pranay Sethi and others, SLP (Civil) No. 25590 of 2014, decided on 31.10.2017,*** an addition of 40% should be made as notional income was not taken and the additional income would come to Rs. 6300/- per month. Since only the husband is the claimant, the deduction would be ½ and the amount available would be Rs. 3150/- and the compensation

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would come to Rs. 3150 x 12 x 18 = 6,80,400/-. To this a sum of Rs. 40,000/- is allowed for loss of consortium, Rs. 15,000/- for funeral expenses and Rs. 15,000/- for loss of estate which raises the total to Rs. 7,50,400/-. This is the amount which was payable to the claimant. The amount would be paid with interest as awarded by the Tribunal.

The award is modified. The appeal is allowed.

(ANITA CHAUDHRY)
JUDGE

November 16, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No

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