IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

124

FAO No.1360 of 2017 (O&M)
Decided on : 17.08.2017

N.I.CO. Ltd.

... Appellant

Versus

Suraj (Minor) and others

.. Respondents

CORAM : HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present : Mr.Inderjeet Sharma, Advocate
for the appellant-Insurance Company.

Rameshwar Singh Malik, J. (Oral)

Instant first appeal, at the hands of the Insurance Company, is directed against the award dated 21.12.2016 passed by the learned Motor Accident Claims Tribunal (for short-MACT) whereby claim petition filed by the claimant-respondent was partly allowed.

Heard learned counsel for the appellant.

A bare perusal of the impugned award passed by learned Tribunal will make it crystal clear that cogent and convincing evidence which was documentary as well as oral, was rightly appreciated by the learned Tribunal while passing the impugned award. It was a death case. Monthly income of the deceased Arvind which was assessed at Rs.9000/- per month cannot be said to be either arbitrary or unreasonable by any stretch of imagination. In fact, the impugned award is supported by sound reasons. Having said so, this Court is of the view that learned Tribunal was well justified in passing its impugned award and the same deserve to be upheld.

Before proceeding further, it is to be clarified that instant appeal is being decided without commenting anything qua the claim of the claimant for further enhancement by this Court at the instance of claimant. It is so said because any observation made by this Court in the instant appeal, will not adversely affect the rights of the claimant for seeking any enhancement in the compensation.

Learned Tribunal rightly appreciated the peculiar facts and circumstances of the case in hand and the impugned award is also in consonance with the law laid down by the Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pushpa (2015) 9 SCC 166** as well as this Court in **Reeta Mahajan & ors v. Hans Raj & ors. (2016-3) PLR 528 (P&H)**.

Relevant and cogent findings recorded by the learned tribunal in para Nos.19 to 21 of the impugned award, which deserve to be noticed here, read as under:-

> "19. The counsel for the respondent no.3 at the time of argument has relied on the ruling titled as **Reeta Mahajan & ors v. Hans Raj & ors. (2016-3) PLR 528 (P&H)** wherein it has been held that, "Coming to the issue of loss of future prospects of income, raised by learned counsel for the appellants, it needs to be stated here that the issue of payability of loss of future prospects of income, to dependents of victims of motor vehicle accidents, where the victim was not a permanent salaried employee, has been referred by the Hon'ble Supreme Court to a larger Bench, in the case of **National Insurance Company Ltd. v. Pushpa, (2015) 9, SCC 166.** Hence, this Court has been assessing the loss of future prospects of income, on the parameters of the law laid down in the cases of Sarla Verma, Rajesh and Vimal Kanwar (supra), but has been directing that the

amount be deposited by the insurance company with the Tribunal along with interest accruing thereupon, running from the date of the filing of the claim petition till the date of deposit. The Tribunals have been directed further to have the said amount deposited in a fixed deposit carrying maximum interest, in a nationalised bank. Thereafter, depending upon the decision of the Apex Court in Pushpa's case (supra), i.e. as to whether the loss of future prospects of income are to be paid or not, to the dependents of those motor accident victims as were not in permanent salaried employment, this Court had directed that the amount deposited with the bank to be either disbursed to the claimants, or refunded to the insurance company, as the case may be, in the same manner as an Award of the Tribunal is executed, without further reference to this Court."

20. In the light of the above, ruling, the future prospects which would be awarded by this Tribunal would be deposited in the Tribunal in the fixed deposit carrying maximum interest in any nationalized bank and the same would be disbursed to the claimant or refunded to the insurance company as the case may be on the final outcome of the judgment in the case of **National Insurance Company Ltd. Vs. Pushpa (2015) 9 SCC 166**.

21. Since no authentic proof of income of deceased Arvind has also brought on record, therefore, the income of deceased Arvind would be deemed to be Rs.9000/- per month as that of daily labourer for the year 2015-16. The annual income of deceased Arvind comes out to be Rs.1,08,000/-. The deceased Arvind at the time of his death was having two dependents i.e. petitioners no.1 & 2. Therefore, 1/3rd of his income would be deducted as his personal and living expenses. After such deduction, the contribution towards dependents i.e. petitioners no.1 &2 comes out to be Rs.72,000/- per annum. A multiplier of 17 would be applied because deceased Arvind was aged 26 years old. The total loss of dependency suffered by the petitioners no.1 &2 comes out to be Rs.12,24,000/-."

When the learned counsel for the appellant was confronted as to how learned tribunal has gone wrong on any of relevant factors, learned counsel for the appellant could not raise any meaningful argument in favour of the appellant and rightly so, it being a matter of record. Neither any supporting material is available in favour of the appellant, nor the cogent findings recorded by the learned tribunal are illegal in any manner. In this view of the matter, no fault can be found with the impugned award passed by the learned tribunal and the same deserves to be upheld for this reason also.

During the course of hearing, learned counsel for the appellant could not point out any patent illegality or perversity in the impugned award passed by the learned tribunal, which may warrant interference at the hands of this Court, while exercising its appellate jurisdiction. In fact, the impugned award has been found having been passed strictly in accordance with law, true fact situation of the case in hand as well as on the basis of the law laid down by the Hon'ble Supreme Court. In view of the above, it can be safely concluded that the learned tribunal committed no error of law, while passing the impugned award and the same deserves to be upheld, for this reason as well.

No other argument has been raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the present appeal is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant first appeal stands dismissed, however, with no order as to costs.

[**Rameshwar Singh Malik**]
Judge

17.08.2017
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No