123.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1994-2017 (O&M)
Date of decision:27.03.2017

NEW INDIA ASSURANCE COMPANY LTD ... Appellant

versus

SURINDER KAUR & ORS .... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Vinod Gupta, Advocate, for the appellant.

HARI PAL VERMA, J.

The appellant-New India Assurance Company Limited has filed the present appeal against the award dated 13.12.2016 passed by Motor Accident Claims Tribunal, SAS Nagar (Mohali) (for short, 'the Tribunal'), whereby the claim petition filed by the claimant-Surinder Kaur (respondent No.1 herein), under Section 166 of the Motor Vehicles Act, 1988 for grant of compensation on account of death of her husband, namely, Tarsem Singh Basra in a motor vehicular accident, which took place on 02.02.2015, was accepted by the Tribunal and the claimant was held entitled to compensation of ₹18,25,536/-.

Briefly stated, as per the claim petition, on 02.02.2015, Tarsem Singh Basra along with one Baljinder Singh, was going from Phagwara side towards Village Malhi on a scooter bearing registration

No.PB36-B-7758, being driven by Baljinder Singh at a slow speed with proper care and caution, on the left side of the road, while Tarsem Singh Basra was pillion rider. When they reached near the revenue limits of Village Malhi, a vehicle i.e. Tata Safari bearing registration No.PB07-Q-7824, being driven by Kashmir Singh (respondent No.2 herein) in a rash and negligent manner, without blowing any horn, came from Phagwara side and struck into the scooter of Baljinder Singh from the rear side. Due to the impact of the said accident, both the occupants of the scooter fell down on the road and received multiple grievous injuries. Tarsem Singh Basra received injuries on his head and other parts of the body. He was firstly taken to Civil Hospital, Phagwara, from where, he was taken to Capital Hospital, Jalandhar, where he was treated upon and ultimately succumbed to his injuries on 05.02.2015 i.e. after three days of the accident. In this regard, an FIR No.11, dated 05.02.2015, under Sections 279, 427, 337, 338, 304-A IPC, was got registered at Police Station Behram, by the eyewitness-Baljinder Singh. It has further been averred in the claim petition by the claimant that her husband-Tarsem Singh Basra (deceased) was a resident of United Kingdom and at the time of accident, he was 75 years old. He, being a retiree, was getting pension to the extent of 200 pounds per week i.e. 800 pounds per month, which as per Indian currency comes to ₹76,800/-per month. The untimely death of her husband has caused a huge loss to her.

In support of her claim petition, the claimant examined PW1-Simran Singh, her attorney holder, who proved the fact that the deceased was a British citizen and also had permanent residency of United Kingdom. The perusal of Ex.P5-the pension record of deceased, revealed that the deceased was getting pension of 116.89 pounds for the period w.e.f. 07.04.2014 to 05.02.2015 and the pension credited for the same period was 36.69 pounds. Ex.P6 is the copy of passport of the deceased. It was evident from the material placed on record that the deceased was a resident of United Kingdom and was drawing pension of approximately 153 pounds per week which comes to be 612 pounds per month. The Tribunal, after considering that the cost of living in the country like United Kingdom is quite higher, made a deduction of 50% towards personal expenses of the deceased. Thus, the monthly contribution of the deceased towards the complainant was assessed as 306 pounds. At the relevant time, the value of pound was approximately ₹85/- and after making calculations, the monthly contribution comes to ₹26,010/- (i.e. 306 x 85=26,010/-). The annual dependency comes to ₹3,12,120/- (i.e. 26,010 x 12) and while applying multiplier of 5 to the annual dependency, the total compensation was worked out to ₹15,60,600/- (i.e. 3,12,120 x 5=15,60,600/-). Keeping in view the judgment of the Hon'ble Supreme Court rendered in ***<u>Rajesh Versus Rajbir Singh-2013(3) RCR (Civil) 170</u>***, the Tribunal has also awarded the other admissible amounts like loss of consortium at ₹1 lakh and ₹25,000/- towards funeral expenses. Since the deceased remained in hospital till 05.02.2015, the Tribunal, on the basis of medical bill of Capitol Hospital (Ex.P3) had also awarded an amount of ₹1,39,936/- to the claimant. In this manner, a total compensation of ₹18,25,536/- was awarded to the claimant.

Mr. Vinod Gupta, learned counsel for the appellant-Insurance Company has argued that the deceased was 75 years of age and had died in India. Therefore, his dependency is to be assessed in terms of the provisions of Motor Vehicles Act and as per Indian currency, and the compensation cannot be assessed on the basis of his pension which the deceased was drawing in United Kingdom. No evidence has been produced by the claimant that the deceased was ever drawing such a pension, as no person has been called to prove the same. The claimant was not dependent on the pension of the deceased and she is entitled only for love and affection. He has further argued that the claimant has sought the claim in the form of foreign currency i.e. pounds being resident of United Kingdom, the compensation is required to be assessed in terms of the income which the deceased was drawing as monthly pension.

I have heard learned counsel for the appellant.

The deceased-Tarsem Singh Basra was 75 years of age and had died while in India. It is proved on record that he was drawing pension of 612 pounds per month and after converting this pension into Indian currency, it comes to ₹52,020/- per month. The Tribunal had applied 50% deduction towards deceased's personal expenses and had applied a multiplier of 5. In this manner, the total compensation comes to ₹15,60,600/- (i.e. 52,020 x 50% x 5 x 12=15,60,600/-). Since the deceased was admitted in the hospital, the Tribunal has rightly awarded ₹1,39,936/- towards medical bill of Capitol Hospital, which is proved as per Ex.P3. In view of judgment in ***Rajesh's case*** (supra), the Tribunal has rightly granted ₹1 lakh towards consortium and ₹25,000/- towards funeral expenses.

In view of above, this Court does not find any reason to interfere in the well reasoned award passed by this Court and accordingly, the appeal filed by the Insurance Company stands dismissed.

(HARI PAL VERMA)
JUDGE

27.03.2017
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Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No