

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5034 of 2017 (O&M)
Date of Decision: 03.08.2017

Iffco Tokio General Insurance Company Ltd.Appellant

Vs.

Babita and othersRespondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Ajay Singla, Advocate, for the petitioner.

RITU BAHRI, J. (ORAL)

CM No.15315-CII of 2017

For the reasons stated in the application, delay of 29 days in filing the appeal is condoned.

Application stands disposed of.

FAO No.5034 of 2017

Present appeal has been preferred by the appellant/Insurance (for short 'the appellant'), against award dated 01.03.2017, passed by the learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal') vide which compensation to the tune of Rs.16,90,338/- was awarded to the claimants on account of death of Sh.Sonu.

The insurance company had challenged the said impugned Award given by the learned Tribunal on the ground that father of the deceased cannot be taken as dependent upon the son and instead of 1/4th on his personal expenses, 1/3rd should have been deducted. This argument of counsel of the appellant/Insurance is liable to be rejected as insurance company had failed to lead evidence before the learned Tribunal that father of the deceased had independent source of income and in the absence of any evidence, this finding

cannot be interfered with. Learned counsel for the appellant/Insurance Company had referred to the judgment of **Kulwinder Kaur and others Vs. Narinder Singh and another 2916(2) LAR 566** whereby, even though the father was not considered to be dependent, income of the deceased-mother was held entitled to Rs.1,00,000/- on account of love and affection. In the present case, for loss of love and affection, Rs.1 Lac has been given to both the parents.

The deceased Sonu was 28 years old at the time of his death and he was doing the job of driver. The learned Tribunal had assessed the compensation as under:-

Sr.No.	Heads of compensation	Amount
1	Salary per month	Rs.13,750/-
2.	Future Prospect 50%	Rs.13,750/- +Rs.6,875/-=20,625/-
3.	Deduction 1/4th	Rs.20,625/- -- Rs.5,156/- =Rs.15,469/-
4.	After applying multiplier total loss of dependency	Rs.15,469/- X 12 X17= Rs.31,55,676/-
5.	Funeral expenses and conveyance charges	Rs.25,000/-
6.	Loss of love and affection(parents)	Rs.1,00,000/-
7.	Loss of consortium	Rs.1,00,000/-
	Total	Rs.33,80,676
	Due to contributory negligence of 50%, the total compensation	Rs.16,90,338/-

In the case of **Kulwinder Kaur (Supra)**, Rs.1,00,000/- had been awarded on account of loss of consortium to the widow of the deceased, Rs.1,00,000/- had been awarded to the minor son of the deceased on account of loss of love, care and guidance Rs.1,00,000/- had been awarded to mother of the deceased on account of loss of love and affection, in view of the same, in the present case, the compensation is reassessed as under :

1	Salary per month	Rs.13,750/-
2.	Future Prospect 50%	Rs.13,750/- +Rs.6,875/-=20,625/-
3.	Deduction 1/3th	Rs.20,625/- -- Rs.6,875/- =Rs.13750/-
4.	After applying multiplier total loss of dependency	Rs.13750/- X 12 X17= Rs.28,05,000/-
5.	Funeral expenses and conveyance charges	Rs.25,000/-
6.	Loss of love and affection mother and minor son	Rs.2,00,000/-
7.	Love and affection to the father	Rs.50,000/-
8.	Loss of consortium	Rs.1,00,000/-
	Total	Rs.31,80,000/-
	Due to contributory negligence of 50%, the total compensation	Rs.15,90,000/-

After recalculating the compensation as per aforesaid judgment passed by the Co-ordinate Bench of this Court, there are no far differences in compensation granted to the claimants even after applying 1/3rd deduction.

So in view of the above, the orders of the learned Tribunal do not reflect any material irregularity or perversity which warranting interference. Hence the present appeal of the insurance company stands dismissed.

(RITU BAHRI)
JUDGE

03.08.2017
anil

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No