In the High Court of Punjab and Haryana at Chandigarh

FAO- 5297 of 2017(O&M)
Date of Decision: 8.8.2017

IFFCO TOKIO General Insurance Company Limited

---Appellant

versus

Kamlesh Devi and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Ajay Singla, Advocate
for the appellant

***

Rekha Mittal, J.

The present appeal directs challenge against award dated 2.2.2017 passed by the Motor Accidents Claims Tribunal, Karnal (hereinafter to be referred to as "the Tribunal") whereby compensation has been awarded in regard to death of Suresh in a motor vehicular accident that took place on 11.11.2015.

Counsel for the appellant has assailed the award primarily on two counts. The first submission made by counsel is that the Tribunal has allowed benefit of future prospects to the extent of 30% despite the fact that matter with regard to grant of future prospects is pending consideration before a Larger Bench of Hon'ble the Supreme Court of India in view of reference made in ***National Insurance Co. Limited vs. Pushpa and others.***

Another submission made by counsel is that the deceased was a gratuitous passenger in vehicle bearing No. HR-45-B-5212 (alleged offending vehicle), therefore, liability to pay compensation has been wrongly fastened upon the insurance company though it has been given recovery rights against the insured.

I have heard counsel for the appellant, perused the paper book particularly the award.

The deceased left behind a family consisting of his widow, four minor children and mother. There is nothing on record suggestive of the fact that the deceased was suffering from any disability rendering him unable to put his best for earning livelihood for himself and his family. In these circumstances, it is difficulty to accept that the deceased would have stagnated at income of Rs. 9560/-, had he remained alive. The mere fact that a reference is pending consideration before a Larger Bench of Hon'ble the Supreme Court of India in view of reference made in ***National Insurance Co. Limited vs. Pushpa,*** is not sufficient to deny benefit of increase in income for future prospects. In this view of the matter, contention raised by counsel for the appellant to assail findings of the Tribunal allowing increase in income for future prospects is untenable and liable to be rejected.

So far as plea that the deceased was a gratuitous passenger in the offending vehicle, on a query by the Court whether the policy issued by insurance company is an Act policy or a package/comprehensive policy, counsel would inform that the policy is a package/comprehensive policy. That being so, in the light of judgment of Hon'ble the Supreme Court of India ***National Insurance Company Limited vs. Bala Krishanan and another 2013 ACJ 199,*** the insurance company cannot escape its liability to pay compensation.

No other point has been raised.

For the foregoing reasons, appeal fails and is accordingly dismissed in limine.

As the appeal has been decided on merits, application for condonation of delay is of academic relevance only.

(Rekha Mittal)
Judge

8.8.2017
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No