IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-6747-2017 (O&M)
Date of decision: 12.10.2017

UNITED INDIA INSURANCE CO LTD ...Applicant/Appellant

Versus

SUMAN & ORS ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sanjiv Pabbi, Advocate for the applicant/appellant.

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REKHA MITTAL, J. (Oral)

CM No.21971-CII of 2017

Heard.

For the reasons stated in the application supported by affidavit of counsel for the applicant i.e. Mr. Sanjiv Pabbi, Advocate, same is allowed. Delay of 6 days in refiling the appeal is condoned.

Main Case

The present appeal directs challenge against award dated 24.05.2017 passed by the Motor Accidents Claims Tribunal, Karnal whereby compensation has been awarded in regard to death of Sultan Singh in a motor vehicular accident that took place on 17.07.2016.

Counsel for the appellant has submitted that as the deceased was an employee of the State of Haryana and died at the age of 43 years 10 days, family of the deceased shall be entitled to last pay drawn for a period of 12 years and the said amount is liable to be deducted out of compensation assessed by the Tribunal, in the light of judgment of Hon'ble the Supreme Court **Reliance General Insurance Co. Ltd. VS. Shashi Sharma and ors., 2016(4) RCR (Civil) 569**. Another submission made by counsel is that the Tribunal has awarded an amount of Rs.1 lakh for loss of love and affection to the widow in addition to loss of consortium to the tune of Rs.1 lakh.

I have heard counsel for the appellant, perused the paper book particularly details of compensation reproduced in Para 29 of the award.

The Tribunal has deducted ex-gratia salary at Rs.36,846/- per month for a period of 11 years amounting to Rs.48,63,672/- from compensation qua loss of dependency to the tune of Rs.64,98,408/-, thus, allowing compensation of Rs.16,34,736/- towards loss of dependency. Had the assistance under Haryana Compassionate Assistance to Dependents of Deceased Government Employees Rules, 2006 (hereinafter to be referred as 'Rules of 2006') been not available, family of the deceased would have been entitled to pension to the extent of 50% of the last pay drawn by the deceased. In the light of judgment dated 12.09.2017 passed in **Reliance General Insurance Company Ltd. VS. Sarla Devi and ors., FAO-3633-2015** by this Court only 50% of the amount allowed under Rules of 2006, in the circumstance of the present case, is liable to be deducted out of compensation assessed by the Tribunal. If only 50% deduction is made qua assistance provided under the Rules of 2006, compensation payable to the claimants would be more than what has been assessed by the Tribunal. In this view of the matter, I do not find any merit in contention of the appellant that compensation assessed by the Tribunal warrants reduction.

For the foregoing reasons, the appeal is dismissed. However, in case an appeal is preferred by the claimants seeking enhancement of compensation, it would be open for the insurance company to raise the aforesaid contentions for deciding entitlement of the claimants to enhancement.

12.10.2017 **(REKHA MITTAL)**
ashok **JUDGE**

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