IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 6302 of 2012 (O&M)
Date of decision : July 25 2018

Shri Ram General Insurance Company .....Appellant

Versus

Smt. Hazra and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Rajbir Singh, Advocate for the appellant.

Mr. Ashish Gupta, Advocate
for respondents No. 1 to 5.

None for respondents No. 6 and 7.

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LISA GILL, J.

Present appeal has been filed by Shri Ram General Insurance Company impugning award dated 21.08.2012 by the learned Motor Accident Claims Tribunal, Nuh (hereinafter referred to as the 'Tribunal') .

Respondent Nos. 1 to 5 filed petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Attar Khan on 31.01.2011 in a motor vehicle accident caused due to driving of the offending vehicle bearing registration No. HR-55G-9769 by respondent No.6 in a rash and negligent manner. Liability of the appellant - insurance company is not disputed. Challenge is, however, raised in respect to the quantum of compensation.

Learned Tribunal while holding that the deceased was 50 years old on the basis of the Post Mortem Report (Ex.P5), assessed his income to be Rs. 4500/- per month (wages of the unskilled labourer). Multiplier of 13 was applied. Deduction of $1/10^{th}$ was effected towards personal expenses. Total dependency was calculated at ₹8,21,340. Additionally, a sum of

₹5,000/- on account of transportation of the body and ₹10,000/- on account of loss of consortium was awarded besides a sum of ₹10,000/- on account of funeral expenses. Learned Tribunal awarded a sum of ₹8,46,500/- with interest at the rate of 6% per annum from the date of filing of the claim petition till date of actual realisation of the award.

Learned counsel for the appellants submits that age of the deceased has been wrongly held to be 50. Reference is made to the voter Identity Card dated 16.10.1994 (Ex. RX) where his age is shown to be 56 years. It is to be noted that a copy of the voter Identity Card was taken on record on an application CM-29970-CII-2012 filed by the insurance company being allowed on 12.10.2017. Opportunity for rebuttal was afforded to the respondents. Respondent-claimants, however, relied upon the birth certificate of the deceased Attar Khan issued by the Department of Health, Haryana, Nuh whereby his date of birth is recorded as 09.09.1959.

Learned counsel for the appellants fairly submits that there is no objection in case date of birth of the deceased is taken to be 09.09.1959 as per the birth certificate furnished by the respondents. It is urged that even according to the said birth certificate, age of the deceased being about 51 years, multiplier of 11 instead of 13 is to be applied. 30% increase on account of loss of future prospects is to be reduced to 10%. It is, however, conceded that in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, compensation awarded under the conventional heads i.e. a sum of ₹15,000/- each on account of loss of estate, funeral expenses and ₹ 40,000/- for loss of consortium may be afforded. No serious objection has been raised to the interest at the rate of 7.5% per annum being afforded for the amount yet to be disbursed. Recovery of compensation beyond ₹5 lakhs had been stayed. Keeping in view the judgment of the Hon'ble Supreme Court in ***Smt. Sarla Verma and others Versus Delhi Transport Corporation and another*** 2009 (3) RCR (Civil) 77, deduction of 1/4th is to be effected instead of 1/10th on account of personal expenses.

Learned counsel for the respondent – claimants is unable to put forth any argument to the contrary especially keeping in view the guidelines laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi's** case (supra). Increase in income on account of loss of future prospects at the rate of 10% instead of 30% is to be afforded, which takes the income of the deceased to ₹4,950/- per month . Deduction of 1/4th instead of 1/10th is to be applied as number of dependants is five (5), thereby rendering income of the deceased to be ₹3712.5/-(4950-1237.5). Applying a multiplier of 11, dependancy of the claimants is assessed as ₹4,90,050/- (₹3712.5x12x11). The claimants are also entitled to ₹15,000/- for funeral expenses and ₹15,000/- for loss of estate besides the claimant wife being entitled to ₹40,000/- on account of loss of consortium, Accordingly, compensation awarded to the claimants – respondents No. 1 to 5 is re-worked as under:-

Loss of dependency (₹3712.5x12x11)	₹4,90,050/-
Loss of consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹5,60,050/-

The claimant/respondents shall, however, be entitled to interest @ 7.5% per annum on the amount yet to be disbursed from the date of filing of the petition till realisation.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

(Lisa Gill)
July 25, 2018 **Judge**
rts

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