IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

XOBJC-182-CII of 2015 in/and
FAO No.1349 of 2015 (O&M)

Date of decision: 11.07.2018

ORIENTAL INSURANCE COMPANY LTD ... Appellant

Versus

ANMOLPREET KAUR AND ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ashwani Talwar, Advocate
for the appellant.

Mr. Hardip Singh, Advocate
for respondents No.1 to 4/cross-objectors.

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO No.1349 of 2015 and Cross-Objections No.182-CII of 2015 as these have emanated from the same award dated 18.10.2014 passed by the Motor Accidents Claims Tribunal, Rupnagar whereby compensation has been awarded on account of death of Harjeet Singh in a motor vehicular accident that took place on 09.02.2014.

The Tribunal has awarded compensation of Rs.53,97,520/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.30,347/-
2. Income Tax	Rs.1700/-
3. Loss of monthly dependency	Rs.28,347/-
4. Addition in income for future prospects	50%

5. Multiplier	14
6. Deduction for personal expenses	$1/4^{th}$
7. Loss of dependency	Rs.53,57,520/-
8. Expenses on transportation and funeral	Rs.15,000/-
9. Loss of consortium	Rs.25,000/-

Counsel for the insurance company would inform that appeal has been preferred to assail quantum of compensation assessed by the Tribunal. To substantiate his contention, he has two fold submissions to make. It is argued that the Tribunal had assessed income of the deceased at Rs.30,347/- per month on the basis of pay slip Ex.C7 which also reflects certain allowances i.e. mobile allowance, medical allowance, rural area allowance and conveyance allowance amounting to approximately Rs.2000/- per month and the same is liable to be deducted. Claimants have been wrongly allowed benefit of future prospects @ 50% as against 40% admissible in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**.

Counsel representing the counter claimants would urge that the Tribunal has rightly assessed income of the deceased and so also the benefit of future prospects. As the deceased was 35 years old, appropriate multiplier should be 16 in place of 14. Adequate compensation may be allowed under conventional heads.

The deceased was working as Clerk-cum-DEO in The Ropar Central Cooperative Bank, Ropar at gross salary of Rs.30,047/-. The allowances admissible to the deceased would be the benefit available to his family and are not amenable to deduction as has been prayed for by counsel for the insurance company. In this context, reference can be made to judgments of Hon'ble the Supreme Court **National Insurance Company Ltd. VS. Indira Srivastava and others, 2008(1) RCR (Civil) 359** and **Manasvi Jain VS. Delhi Transport Corporation, 2014(3) RCR (Civil) 313**.

The annual income of the deceased comes to Rs.3,60,564/- (Rs.30,047 x 12). After deducting liability to pay income tax (Rs.16,056), annual loss of dependency is Rs.3,44,508/- (3,60,564 – 16,056).

As the deceased was an employee of The Ropar Central Cooperative Bank Ltd, Tribunal has rightly allowed benefit of future prospects @ 50%. However, compensation is to be computed by applying multiplier of 16 as the deceased was 35 years old at the time of occurrence. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. In this manner, loss of dependency is calculated at Rs.62,01,144/- [(Rs.3,44,508 x 16) + (50% future prospects) – (1/4th deduction for personal expenses)].

Under conventional heads, claimants shall be entitled to Rs.70,000/-, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

Total compensation is Rs.62,71,144/- and the additional amount of Rs.8,73,624/- (62,71,144 - 53,97,520) shall be payable with interest @ 7.5% per annum from the date of petition till realization to minor claimants Robinpreet Singh and Loverajpreet Singh in equal ratio, to be invested in fixed deposit till they attain the age of majority or for a period of three years, whichever is later.

The appeal and cross objections stand disposed of in the aforesaid terms.

(REKHA MITTAL)
11.07.2018 **JUDGE**
ashok

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