IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3592-2013 (O&M)
Date of decision: 02.02.2018

NEW INDIA ASSURANCE CO. LTD. ...Appellant

Versus

SHWETA RANI AND ORS. ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. J.S. Chatrath, Advocate
for the appellant.

Mr. Rajbir Singh, Advocate for
Mr. Sanjeev Goyal, Advocate/Amicus Curiae
for the claimants.

****

REKHA MITTAL, J. (Oral)

CM No.15003-CII of 2013

Heard.

Allowed as prayed for. Annexure A2 is taken on record subject to just exceptions.

Main Case

The present appeal directs challenge against award dated 07.03.2013 passed by the Motor Accidents Claims Tribunal, Panchkula whereby compensation has been awarded on account of death of Balwinder Singh in a motor vehicular accident that took place on 11.07.2011.

The Tribunal has awarded compensation to the tune of

Rs.62,08,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.35,000/-
2. Addition in income for future prospects	30%
3. Multiplier	17
4. Deduction for personal expenses	1/3rd
5. Loss of dependency	Rs.61,88,000/-
6. Expenses on funeral	Rs.5000/-
7. Loss of estate	Rs.5000/-
8. Loss of consortium	Rs.10,000/-

Counsel for the appellant would inform that the appeal has been preferred only to assail quantum of compensation assessed by the Tribunal. It is argued that the Tribunal has assessed income of the deceased at Rs.35,000/- per month but in Form No.16 Ex.PW3/A, income of the deceased has been reflected to the tune of Rs.3,60,000/- per annum (approximately) including transport allowance of Rs.9180/- and house rent allowance of Rs.63,355/-. It is further argued that the Tribunal has not deducted income tax while computing loss of dependency.

Counsel representing the claimants has submitted that Form No.16 pertains to the period 01.04.2010 to 31.03.2011. In the next financial year, salary of the deceased was Rs.35,000/- per month as proved by Parvesh Kumar PW3. It is argued that the claimants further examined Sophia Banga, Assistant Manager, ICICI Bank, Manimajra who produced accounts statement of deceased showing that an amount of Rs.32,653/- was remitted in the account of the deceased towards salary on 07.07.2011 and produced copy of statement of account Ex.PW6/A. It is further argued that the amount of Rs.32,653/- remitted in the account of deceased exactly tally with the salary certificate Ex.P1 wherein gross salary of the deceased is Rs.35,000/- per month and carry home salary Rs.32,653/-. Another submission made by counsel is that claimants are entitled to benefit of increase in income for future prospects @ 40% in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270.** Adequate compensation may be allowed under conventional heads.

I have heard counsel for the parties, perused the paper book and the records.

On due consideration of testimony of Sophia Banga, Assistant Manager, ICICI Bank, Manimajra, statement of account Ex.PW6/A, testimony of Parvesh Kumar, Senior Executive from Accounts Branch, Safaltex Company, Manimajra PW3 and documents produced by the said witness the Tribunal has rightly concluded that deceased was getting salary of Rs.35,000/- per month but his carry home salary was more than Rs.32,000/-. The Tribunal has rightly taken into consideration income of the deceased at Rs.35,000/- per month for computing loss of dependency. After deducting tax liability of Rs.24,000/-, net income for loss of dependency comes to Rs.3,96,000/- per annum. The Tribunal has rightly allowed multiplier of 17 and deduction for personal expenses to the extent of 1/3rd. However, claimants shall be entitled to increase in income for future prospects @ 40%. In view of the above, loss of dependency comes to

Rs.62,83,200/- (Rs.3,96,000 x 17) + (40% future prospects) – (1/3rd 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/-

The total compensation comes to Rs.63,53,200/- and the additional amount is Rs.1,45,200/- (63,53,200 – 62,08,000), payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is disposed of in the aforesaid terms.

02.02.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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