IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 28.08.2018

FAO No.1529 of 2015 (O&M)

United India Insurance Co. Ltd. ... Appellant

Versus

Balbir Kaur and others ... Respondents

FAO No.1531 of 2015 (O&M)

United India Insurance Co. Ltd. ... Appellant

Versus

Balbir Kaur and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. D.P. Gupta, Advocate
for the appellant.

Mr. Ashwani Arora, Advocate
for respondents No.1 to 3.

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.1529 and 1531 of 2015 as these have emerged out of the same accident that occurred on 02.06.2013 in which Madhu, Gurpreet Singh and their daughter Savi sustained injuries that proved fatal.

CM No.4315-CII of 2015 in/and FAO No.1529 of 2015

Heard.

Allowed as prayed for. Delay of 32 days in filing the appeal stands condoned.

The insurance company has filed the appeal to assail the award dated 06.10.2014 passed by the Motor Accidents Claims Tribunal, Sahibzada Ajit Singh Nagar (Mohali) whereby compensation has been assessed to the tune of Rs.13,51,000/-, detailed hereunder:-

1. Annual income of the deceased	Rs.78,000/-
2. Addition in income for future prospects	50%
3. Multiplier	17
4. Deduction for personal expenses	1/3rd
5. Loss of dependency	Rs.13,26,000/-
6. Expenses on funeral	Rs.25,000/-

Counsel for the insurance company would inform that appeal has been preferred only to challenge quantum of compensation assessed by the Tribunal. It is argued that as the deceased was daughter in law of the claimants and she (deceased) had her own family consisting of her husband and minor child who unfortunately also died in the same occurrence, deduction for personal expenses should be more than what is allowed by the Tribunal. He has also challenged addition in income for future prospects @ 50% vis-a-vis 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 claimants has supported the award on the premise that husband and minor child of the deceased also passed away and parents in law cannot be denied just and reasonable compensation on the basis of materials on record.

Indisputably, the claimants are parents in law of deceased Madhu. Counsel for the insurance company has not disputed their entitlement to get compensation. The deceased had her own family consisting of her husband and minor child though they also died in the same accident.

As per the settled position in law, compensation cannot be a bonanza or a source of profit. Compensation is awarded to make good the loss as the money can do. In the given scenario, it would be appropriate that deduction for personal expenses should be 50% in place of 1/3rd. The income of deceased and multiplier adopted by the Tribunal are correct and affirmed. Claimants shall be entitle to addition in income for future prospects @ 40% in the light of **Pranay Sethi and others's case (supra)**. In this manner, loss of dependency is calculated at Rs.9,28,200/- [(Rs.78,000 x 17) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.30,000/-, i.e. Rs.15,000/- for funeral expenses and Rs.15,000/- for loss to estate.

Total compensation is Rs.9,58,200/- and compensation allowed by the Tribunal is reduced to the extent of Rs.3,92,800/- (13,51,000 - 9,58,200). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an application before the Tribunal.

Disposed of accordingly.

FAO No.1531 of 2015

With regard to death of Gurpreet Singh, the Tribunal has awarded compensation of Rs.17,84,000/-, detailed hereunder:-

1. Annual income of the deceased	Rs.1,02,000/-
2. Addition in income for future prospects	50%
3. Multiplier	17
4. Deduction for personal expenses	1/3rd
5. Loss of dependency	Rs.17,34,000/-
6. Expenses on funeral	Rs.25,000/-
7. Loss of estate	Rs.25,000/-

Counsel for the insurance company would urge that the deceased had a family consisting of his wife and minor child. As two of the persons dependent on his income have died in the same accident, deduction for personal expenses should be 50% in place of 1/3rd. Compensation under conventional heads needs to be restricted to Rs.30,000/- in the light of **Pranay Sethi and others's case (supra).**

Counsel for the claimants, on the contrary, would argue that as application for compensation has been filed by unfortunate parents of deceased Gurpreet Singh who was admittedly married and had his own family, deduction for personal expenses should be 1/3rd, in the light of judgment of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77.** It is argued that in **Sarla Verma and others's case (supra)**, deduction of 1/3rd is admissible if number of dependents is 2 to 3.

Indisputably, Gurpreet Singh is the married son of claimants and he had his own family consisting of his wife and minor child. Unfortunately, his wife and the minor child also died in the same accident. In **Sarla Verma and others's case (supra)**, Hon'ble the Supreme Court has held that the Tribunal has an obligation to assess just and reasonable compensation. Compensation cannot be a bonanza, source of profits and largesse. In the case at hand, two persons who were mainly dependent upon income of Gurpreet Singh have also died in the same accident. A major portion of income of deceased Gurpreet Singh would have been available to his family, had his wife and minor child survived the unfortunate occurrence.

Taking into consideration the legislative intent behind the provisions of Motor Vehicles Act dealing with compensation coupled with observations made in **Sarla Verma and others's case (supra)** and the fact that in the given scenario, position of parents is akin to that of claim for death of an unmarried son, it would be in the fitness of things, if deduction for personal expenses is allowed to the tune of 50%. That being so, loss of dependency is calculated at Rs.13,00,500/- [(Rs.1,02,000 x 17) + (50% future prospects) – (50% deduction for personal expenses)].

Compensation under conventional heads allowed by the Tribunal is more than what is admissible in the given circumstances when examined in the light of judgment in **Pranay Sethi and others's case**

(supra). Accordingly, the same is affirmed.

Total compensation is Rs.13,50,500/- and compensation awarded by the Tribunal is reduced to the extent of Rs.4,33,500/- (17,84,000 – 13,50,500). The excess amount, if already paid, by the insurance company may be recovered by filing an application before the Tribunal.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

28.08.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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