IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 2025 of 2015 (O&M)
Date of decision: 24.04.2018

National Insurance Company Limited .... Appellant

Versus

Swaran Kaur and others ....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Ms. Vandana Malhotra, Advocate
for the appellant

Mr. Ashwani Arora, Advocate with
Ms Amandeep Kaur, Advocate
for respondents No. 1 to 4

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Rekha Mittal, J. (Oral)

The present appeal directs challenge against award dated 28.10.2014 passed by the the Motor Accidents Claims Tribunal, SAS Nagar (Mohali) (hereinafter to be referred as 'the Tribunal'), whereby compensation has been awarded on account of death of Sucha Singh in a motor vehicular accident that took place on 28.04.2013.

The Tribunal has awarded compensation of Rs.10,17,733.00 details hereunder:-

Monthly income of deceased	Rs.14,000.00
Deductions for personal expenses	1/4th
Multiplier	7
Lost of dependency	Rs.8,82,000.00
Loss of consortium	Rs.1,00,000.00
Medical expenses	Rs.10,733.00
Funeral expenses	Rs.25,000.00

Counsel for the appellant-insurance company would inform that the appeal has been preferred primarily to assail quantum of compensation assessed by the Tribunal. It is argued that the Tribunal has relied upon document Ex.P7, purported to be a computer generated copy of payment register of the New Bassian Brahman Co-op Society (in short, 'the Society') with regard to sale of milk to said society. It is argued that claimants did not examine a witness from the society concerned to substantiate their plea that Sucha Singh was a member of said society or had supplied milk to the society. In document Ex.P7, at serial No. 10, there is reference to Sucha Singh but particulars of said Sucha Singh have not been mentioned. It is argued that as claimants did not examine a representative of the aforesaid society, it casts a doubt with regard to correctness of document Ex.P7 and accordingly, the said document cannot form the basis for assessing income of the deceased.

Another submission made by counsel is that application for compensation was filed by the widow, two major sons and mother of the deceased. Bahadur Singh, claimant No. 2 was examined and he admitted that he is working in dairy and earning Rs.4,000.00 per month. According to counsel, deduction in the given circumstances should be 1/3rd in place of 1/4th. Compensation allowed under conventional heads needs to be restricted to Rs.70,000.00 in the light of judgment of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SC 1270.***

Counsel representing the claimants has supported assessment made by the Tribunal with the submissions that proceedings before the

Tribunal are summary in nature and strict principles of law of evidence are not attracted. It is argued that as the insurance company did not adduce any evidence to rebut correctness of document Ex.P7, reliance thereupon by the Tribunal cannot be faulted with.

The Tribunal has dealt with issue of quantum of compensation. In the earlier part of para 15 of the award, the Tribunal has held that it will be in the fitness of things to assess income of the deceased at Rs.8,000.00 per month. Later, the Tribunal by relying upon document Ex.P7 has recorded a finding that income of the deceased is to be assessed at Rs.14,000.00 per month. Except oral deposition of one of the claimants with regard to avocation of the deceased, document Ex.P7 tendered into evidence by counsel for the claimants before the Tribunal, there is no evidence on record that deceased was maintaining milch cattle and doing business of dairy farming.

No doubt, proceedings before the Tribunal are summary in nature and strict principles of law of evidence cannot be applied thereto. Equally settled is that the Tribunal owes an obligation to assess just and reasonable compensation that cannot be a bonanza or a source of profit or largesse. There cannot be any dispute that no amount of compensation may be a substitute for beautiful human life but at the same time, this Court is not oblivious of the fact that claimants generally have the tendency to inflate figures of income of the deceased to justify grant of higher compensation. In the case at hand, claimants failed to adduce cogent and convincing evidence that the deceased was doing the business of dairy farming much less supplying milk to the aforesaid society. As has been rightly pointed out by counsel for the insurance company, in document Ex. P7, only Sucha Singh has been mentioned at serial No. 10, but no particulars of said Sucha Singh have been given. Even Counsel for the claimants did not offer to examine a witness from the concerned society, if so allowed. In the given scenario, I find merit in contention of the insurance company that reliance upon document Ex.P7 for assessing income of the deceased is highly misplaced and document Ex.P7 cannot form the basis for computing loss of dependency.

Taking into consideration, minimum wage of unskilled labour available in the State of Punjab at the relevant time, income of deceased is assessed at Rs.5,700.00. The Tribunal has allowed deduction to the extent of $1/4^{th}$ for personal expenses and the same is ordered to be affirmed keeping in view that application for compensation was filed by the widow, two sons and mother of the deceased. Even if Bahadur Singh was earning Rs.4,000.00 per month, it cannot be said that he was not getting any financial assistance from his father or at least loss to estate qua death of his father. The Tribunal has rightly applied multiplier of 7 for computing loss of dependency. In this manner, compensation qua loss of dependency is calculated at **Rs.3,59,100.00** (Rs.4,78,880.00 *i.e.* 5,700 x 12 x 7 - Rs.1,19,700 ($1/4^{th}$ deduction).

Under conventional heads, claimants shall be entitled to Rs.70,000.00, in the light of judgment of Hon'ble the Supreme Court in ***Pranay Sethi and others'*** case (supra), detailed hereunder:-

Loss of consortium to widow	Rs.40,000.00
Expenses of funeral and last rites	Rs.15,000.00
Loss of estate	Rs.15,000.00

Medical expenses i.e. Rs.10,733.00, allowed by the Tribunal is affirmed. Accordingly, compensation awarded by the Tribunal is reduced to the extent of **Rs.5,77,900.00** (Rs.10,17,733.00 – Rs.4,39,833.00 (Rs.3,59,100.00 + Rs.70,000.00 + Rs.10,733.00)). Excess amount of compensation, if already paid, can be recovered by the insurance company by filing an appropriate application before the Tribunal.

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

(Rekha Mittal)
Judge

24.04.2018
mohan bimbra

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