In the High Court of Punjab and Haryana at Chandigarh

Date of Decision:21.8.2018

FAO No.134 of 2016

New India Assurance Company Limited

---Appellant

vs.

Shila Devi and others

---Respondents

FAO No.680 of 2016

Shila Devi and another

---Appellants

vs.

Pushpendra Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. R.C.Gupta, Advocate
for the appellant in FAO-134 of 2016
for respondent No. 3 in FAO-680 of 2016

Mr. G.S.Sandhu, Advocate
for the appellants in FAO- 680 of 2016
for respondents No. 1 and 2 in FAO- 134 of 2016

None for respondent No. 3 in FAO-134 of 2016

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Rekha Mittal, J.

This order will dispose of FAO Nos.134 and 680 of 2016 as these have emerged out of the same award dated 31.8.2015 passed by the Motor Accidents Claims Tribunal, Karnal (in short “the Tribunal”) whereby compensation has been awarded on account of death of Parteek @ Mukesh @ Ankush in a motor vehicular accident that took place on 24.7.2014.

FAO No. 134 of 2016 has been filed by the New India Assurance Company Limited (hereinafter to be referred to as "the insurance company") to assail quantum of compensation and the other appeal by the claimants seeking enhancement of compensation.

The Tribunal has awarded compensation of Rs. 8,02,600/-, detailed hereunder:-

Monthly income of the deceased	Rs. 3200/-
Addition in income qua future prospects	50%
Deduction for personal expenses	1/4th
Multiplier	18
Transportation and funeral expenses	Rs. 25,000/-

Counsel for the insurance company has conceded that petition for compensation has been filed under Section 166 of the Motor Vehicles Act, 1988 (in short "the Act"). It is submitted that the Tribunal has allowed 50% increase in income qua future prospects which should be 40% and deduction should be 50% as the deceased was unmarried.

Counsel for the claimants would state that Tribunal has assessed notional income of the deceased at Rs. 3200/- but minimum wage at the relevant time was approximately Rs.5500/-. Adequate compensation may be allowed under conventional heads.

Indisputably, the deceased was 16 years old and a student of 10+1 at the time of accident. The Tribunal has assessed notional income of the deceased at Rs. 3200/- per month. Taking a clue from minimum wage available at the relevant time, income of the deceased is assessed at Rs. 5500/- per month. As the deceased was unmarried, deduction for personal expenses would be 50% but increase in income for future prospects @ 40%, in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270**. Multiplier applied by the Tribunal is correct and affirmed. In this manner, loss of dependency is calculated at Rs.8,31,600/- [5500 x 12 x 18=11,88,000 +4,75,200 (40%) = 16,63,200-8,31,600 (50%)].

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitled to Rs. 30,000/-., detailed hereunder:-

Expenses on funeral	Rs. 15,000/-
Loss of estate	Rs. 15,000/-

Total compensation is Rs 8,61,600/- and the additional amount is Rs.59,000/- (8,61,600-8,02,600), payable with interest @ 7.5% per annum from the date of petition till realization to mother of the deceased.

The appeals are disposed of in the aforesaid terms.

(Rekha Mittal)
Judge

21.8.2018
paramjit

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