In the High Court of Punjab and Haryana at Chandigarh

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Date of Decision: 23.4.2018

FAO No. 3980 of 2014(O&M)

Smt. Mukesh Devi and others

---Appellants

versus

Satbir Singh and others

---Respondents

FAO No. 5517 of 2009(O&M)

IFFKO TOKIO General Insurance Company Limited

---Appellant

versus

Smt. Mukesh Devi and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Devender Arya, Advocate
for the appellants-claimants

Mr. Subhash Goyal, Advocate,
for the insurance company

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Rekha Mittal, J.

This order will dispose of FAO Nos. 5517 of 2009 and 3980 of 2014 as these have emerged out of the same award dated 22.8.2009 passed by the Motor Accidents Claims Tribunal, Narnaul (in short “the Tribunal”) whereby compensation has been awarded on account of death of Vijay Singh in a motor vehicular accident that took place on 9.5.2008.

FAO No. 5517 of 2009 has been filed by IFFKO TOKIA General Insurance Company Limited (hereinafter to be referred as “the insurance company") to challenge quantum of compensation assessed by the Tribunal whereas FAO No. 3980 of 2014 has been filed by the claimants seeking enhancement.

CM No. 12016-CII of 2014 in FAO -3980 of 2014

Prayer in this application is for condoning delay of 1599 days in filing the appeal.

In view of averments made in the application supported by affidavit of Mukesh Devi, appellant No. 1 coupled with that provisions of the Motor Vehicles Act for grant of compensation are benevolent social legislation to save the victim family from financial loss caused due to accident, the application is allowed, delay of 1599 days in filing the appeal stands condoned subject, however, to the condition that in case the compensation is enhanced, the applicants-appellants shall not be entitled to interest for the period of delay.

FAO No. 5517 of 2009 and

FAO No. 3980 of 2014

The Tribunal has awarded compensation of Rs. 21,70,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 10,000/-
Addition in income for future prospects	50%
Deduction for personal expenses	$1/4^{th}$
Multiplier	16
Loss of dependency	Rs. 21,60,000/-
Expenses on funeral and loss of consortium	Rs. 10,000/-

Counsel for the insurance company has assailed assessment by the Tribunal primarily on the ground that the Tribunal has allowed benefit of increase in income for future prospects @ 50% but the same should be 40%. To bring home his contention, it is argued that as per appointment letter Ex. PA issued by REI Agro Limited, services of the deceased could be terminated at any time without notice,therefore,claimants cannot be heard to say that the deceased was in regular job and they are entitled to benefit of future prospects @ 50%.

Counsel for the claimants, on the contrary, would urge that compensation assessed by the Tribunal is liable to be enhanced. It is argued that Vikash Dubey, HR Manager of the aforesaid concern was examined and proved that the deceased was a regular employee at salary of Rs. 10,107/- per month and accordingly loss of dependency is liable to be computed by taking into consideration entire salary of the deceased. In addition, it is argued that adequate compensation may be allowed under conventional heads.

Indisputably, deceased was working as Assistant Store Manager with the aforesaid concern at salary of Rs. 10,107/- per month proved by Vikash Dubey, HR Manager in the aforesaid concern. The Tribunal without assigning any reason has reduced income of the deceased to Rs. 10,000/- per month and denied benefit of Rs. 107/- per month to the claimants for a period of 16 years. The entire salary drawn by the deceased is to be taken into account for computing loss of dependency.

Vikash Dubey PW5 has specifically stated that the deceased was a regular employee of the aforesaid concern. The mere fact that in the appointment letter, it was mentioned that services of the deceased could be terminated without notice is not sufficient to negate evidence on record that the deceased was in regular job of the aforesaid concern. The Tribunal has rightly allowed benefit of increase in income for future prospects @ 50%. Deduction for personal expenses and multiplier adopted by the Tribunal are affirmed. In this manner, loss of dependency comes to **Rs. 21,83,112/-** [10,107 x12x 16 =19,40,544 +9,70,272= 29,10,816 -7,27,704(1/4th).

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

Loss of consortium to widow	**Rs. 40,000/-**
Expenses on funeral	**Rs. 15,000/-**
Loss of estate	**Rs. 15,000/-**

Total compensation is Rs.22,53,112/- and the additional amount is Rs. 83,112/- (22,53,112- 21,70,000), payable with interest @ 7.5% per annum form the date of petition till realization except for the period of delay i.e. 1599 days, to widow of the deceased

For the foregoing reasons, appeal filed by the insurance company fails and accordingly dismissed. However, appeal filed by the claimants is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

23.4.2018

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