**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

222 XOBJC-79-CII of 2018 (O&M) in/and
FAO-4678-2014 (O&M)
Date of decision: 26.11.2018

NATIONAL INSURANCE COMPANY LTD ... Appellant

Versus

NAVPREET SINGH & ORS ... Respondents

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present : Mr. Neeraj Khanna, Advocate for the appellant.
Ms. Rimjhim Mahajan, Advocate for
Mr. Sanjeev Pandit, Advocate for respondent No.1.
Mr. R.K. Rathore, Advocate for respondent No.3.

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**<u>REKHA MITTAL, J. (Oral)</u>**

**CM No.13218-CII of 2014**

Heard.

Allowed as prayed for. Delay of 36 days in re-filing the appeal stands condoned.

**Main case and cross objections**

This order will dispose of FAO No.4678 of 2014 and cross objections No.79-CII of 2018 as these have emerged out of the same award dated 04.01.2014 passed by the Motor Accidents Claims Tribunal, Hoshiarpur.

FAO No.4678 of 2014 has been filed by the National Insurance Co. Ltd. (hereinafter to be referred as 'the insurance company') whereas the cross objections have been filed by the claimant seeking enhancement of compensation.

Counsel for the insurance company would inform that the appeal has been preferred only to assail quantum of compensation assessed by the Tribunal.

The Tribunal has awarded compensation of Rs.8,10,512/-, detailed hereunder:-

| | |
|---|---|
| 1. Monthly income of the deceased | Rs.11,021/- |
| 2. Multiplier | 9 |
| 3. Deduction for personal expenses | $1/3^{rd}$ |
| 4. Loss of dependency | Rs.7,93,512/- |
| 5. Expenses on funeral | Rs.7000/- |
| 6. General damages and loss of estate | Rs.10,000/- |

Counsel for the insurance company has assailed quantum of compensation primarily on the ground that the Tribunal has wrongly applied multiplier of 9 by considering the deceased to be 60 years old at the time of occurrence. It is further argued that as per commutation payment order Ex.C3, the pension commenced from 01.04.2004, meaning thereby that the deceased retired from service on 31.03.2004 after attaining the age of superannuation i.e. 58 years, therefore, the deceased was approximately 65 years of age at the time of occurrence.

Counsel for the claimant, on the contrary, has supported findings of the Tribunal with regard to age of the deceased and multiplier applied on the basis thereof. However, she has prayed for enhancement of compensation by allowing adequate compensation under conventional heads.

Taking into consideration the document Ex.C3 that pension of the deceased commenced w.e.f. 01.04.2004 and he would have retired from service on 31.03.2004 at the age of 58 years, the deceased was few months less than 65 years of age at the time of occurrence. Accordingly, multiplier of 7 is admissible, in the given circumstances. After applying multiplier of 7, loss of dependency is calculated at Rs.6,17,176/- [(11,021 x 12 x 7) – ($1/3^{rd}$ deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimant shall be entitle 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/- |

Total compensation is Rs.6,87,176/- and compensation is reduced to the extent of Rs.1,23,336/- (8,10,512 - 6,87,176). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an application before the Tribunal.

For the foregoing reasons, appeal of the insurance company is partly allowed. As a natural corollary, cross objections filed by the claimant are disposed of. As the cross objections have been decided on merits, application for condonation of delay is of academic relevance only.

**(REKHA MITTAL)**
**JUDGE**

26.11.2018
ashok

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