In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 22.3.2018

FAO No. 5668 of 2013

HDFC Ergo General Insurance Company Limited

---Appellant

versus

Sudesh and others

---Respondents

FAO No. 6245 of 2013

Sudesh and others

---Appellants

Versus

Naresh Kumar and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Rajbir Singh, Advocate
for Mr. Sanjeev Goyal, Advocate
for the appellant in FAO- 5668 of 2013
for respondent No. 3 in FAO- 6245 of 2013
None for the appellants in FAO-6245 of 2013
Mr. Satpal Singh, Advocate
for Mr. BPS Virk, Advocate
for respondent Nos. 5 and 6 in FAO- 5668 of 2013
for respondent Nos. 1 and 2 in FAO-6245 of 2013

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Rekha Mittal, J.

This order will dispose of FAO Nos. 5668 and 6245 of 2013 as these have emerged out of the same award dated 13.8.2013 passed by the Motor Accidents Claims Tribunal, Patiala (in short "the Tribunal") whereby compensation has been awarded on account of death of Ramesh Kumar in a motor vehicular accident that took place on 6.4.2011.

FAO No. 5668 of 2013 has been filed by the HDFC Ergo General Insurance company Limited (hereinafter to be referred to as "the insurance company") whereas FAO No. 6245 of 2013 has been filed by the claimants seeking enhancement of compensation.

Counsel for the insurance company, at the outset, would inform that the appeal has been preferred by the insurer to assail findings of the Tribunal only qua issue No. 3 whereby plea of the insurance company that driver of the offending vehicle bearing No. UP- 12T/1774 was not possessing a valid licence, has been rejected. Counsel has fairly conceded that in view of latest judgment of Hon'ble the Supreme Court **Mukund Dewangan vs. Oriental Insurance Company Limited 2017 (7) Scale 731,** controversy raised in the appeal preferred by the insurance company no longer subsists and the appeal may be decided accordingly.

In view of the above, appeal preferred by the insurance company (FAO No. 5668 of 2013) to assail findings of the Tribunal on issue No. 3 is liable to be dismissed and ordered accordingly.

FAO No. 6245 of 2013

The Tribunal has awarded compensation of Rs. 8,13,500/-, detailed hereunder:-

Monthly income of the deceased	Rs. 4500/-
Deduction for personal expenses	1/4th
Multiplier	17
Loss of dependency	Rs. 6,88,500/-
Loss of consortium	Rs. 1,00,000/-
Funeral expenses	Rs. 25,000/-

The Tribunal has not allowed benefit of increase in income for future prospects and the claimants shall be entitled to the said benefit @ 40%. However, income of the deceased, deduction for personal expenses and multiplier adopted by the Tribunal are liable to be affirmed and ordered accordingly. In this manner, loss of dependency comes to Rs. 9,63,900/- (6,88,500 + 2,75,400(40% thereof).

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that 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/-**

The total compensation is Rs. 10,33,900/- and the additional amount is Rs. 2,20,400/-(10,33,900 – 8,13,500), payable with interest @ 7.5% per annum from the date of petition till realization to be shared by the appellants No. 1 to 3 in the proportion 40:30:30. Share of the minors shall be invested in fixed deposit till they attain the age of majority or for a period of three years, whichever is later. The interest accruing on the FDRs shall be paid to their mother for meeting expenses on their education and living.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

22.3.2018
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No