IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

219 FAO-526-2014 (O&M)

Date of decision: 30.10.2018

TATA AIG GENERAL INSURANCE COMPANY LIMITED

... Appellant

Versus

HARJIT SINGH AND ORS ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Rajesh K. Sharma, Advocate for the appellant.
Mr. Vipin Kumar, Advocate for respondent No.1.

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

CM No.1628-CII of 2014

Heard.

Allowed as prayed for. Delay of 35 days in filing the appeal stands condoned.

Main Case

The present appeal directs challenge against order dated 12.09.2013 whereby compensation has been assessed to the tune of Rs.6,02,242/-, detailed hereunder:-

1. Monthly income of the injured	Rs.7624/-
2. Relevant factor	175.54
3. Compensation	Rs.6,02,242/- (7624x60%x175.54x75%)

The sole submission made by counsel for the appellant is that as per document Annexure A2, the claimant/respondent No.1 was paid salary plus allowance to the tune of Rs.5375/- vide voucher dated 08.02.2013 and the same pertains to the month of January, 2013, therefore, compensation is liable to be assessed on the basis of income of the victim at Rs.5375/- per month.

Counsel for the contesting respondent has supported assessment made by Employees Compensation Commissioner, Patiala (in short 'the Commissioner') by relying upon salary certificate issued by TDS

Placements & Services Pvt. Ltd., employer of the victim. It is further argued that even the minimum wage of a crane operator who falls within the category of highly skilled labour is more than what is assessed by the Commissioner. In the alternative, it is argued that even if statement of wages available on page 20 of the paper book is taken into account, as the victim was in job since June, 2012 and met with accident on 06.02.2013, his income is liable to be assessed by taking into consideration average daily earning multiplied by 30.

Be that as it may, respondent No.1 relied upon salary certificate issued by his employer on the basis whereof, income has been assessed at Rs.7624/- per month. The insurance company has relied upon one voucher dated 08.02.2013 recording payment of Rs.5375/- for the month of January, 2013. Taking into consideration the statement of wages coupled with Clause 3 thereof, it would be in the interest of justice, if average of basic salary and dearness allowance from June, 2012 to January, 2013 is taken into consideration for assessing income of the victim. Accordingly, income of the deceased is assessed at Rs.5866.25 (46,930/8). After applying the formula laid down in the impugned order, compensation payable to the claimant/respondent No.1 is calculated at Rs.4,63,392/- (5866.25 x 60% x 175.54 x 75%). As a consequence, the balance amount payable to the claimant is reduced to Rs.1,38,850/- (6,02,242 – 4,63,392). The claimant/respondent No.1 shall be entitle to interest @ 12% per annum on the outstanding balance w.e.f. 12^{th} day of September, 2013 till actual realization.

Disposed of accordingly.

30.10.2018 **(REKHA MITTAL)**

ashok **JUDGE**

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No