IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3789 of 2015 (O&M)
Date of Decision:11.05.2018

National Insurance Company Ltd. ....Appellants

Vs.

Bhavesh Tiwari and others ....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Abhinandan Pandhi, Advocate, for the appellants.

Ms.Ekta Thakur, Advocate, for respondent No.1.

Mr.S.K.Sood, Advocate, for respondents No.2 and 3.

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RITU BAHRI, J. (ORAL)

FAO No.3789 of 2015

Present appeal has been preferred by the appellant/Insurance Company (for short 'the appellants'), against award dated 21.02.2015, passed by the learned Motor Accident Claims Tribunal, Chandigarh (for short, 'the Tribunal') vide which compensation to the tune of Rs.17,07,000/- was awarded to the claimant on account of death of Pinki wife of Kanhiya Lal Tiwari in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 02.10.2011, Pinki along with her husband Kanhiya Lal Tiwari and child was going from Shastri Nagar to Manimajra on foot. At about 8:40 p.m. when she was crossing the light point on the green signal light, respondent No.1 came from the side of IT park in Bolero car bearing registration No.HR-01-U-1515. He was driving the offending Bolero car in a rash and negligent manner and after jumping the red light dashed the vehicle against Pinki. As a result, Pinki suffered multiple injuries on the vital organs of her body. She was taken to GMCH Sector 32, Chandigarh, from where she was referred to PGI, Chandigarh where she was operated upon but she never regained consciousness on account of head injuries suffered by her in the accident. Ultimately, Pinki died on 24.12.2011. On the statement of Kanhiya Lal Tiwari, FIR (Ex.P1) was registered on the file.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 26 years old as per his postmortem report and the claimants failed to produce on the record any documentary evidence regarding income of the deceased. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company. The compensation has been assessed as under:

Sr.No.	Heads of compensation	Amount
1	Income as per daily wages	Rs.8,000/-
2.	Total annual dependency after applying correct multiplier	Rs.8,000/- X 12X 17=Rs.16,32,000/-
3.	Medical bills Ex.P56, Ex.P66, Ex.P71 and Ex.P72	Rs.96,978/-
4.	Love and affection	Rs.50,000/-
5.	Funeral expenses	Rs.25,000/-
	Total	Rs.17,07,000/-

Learned counsel for the appellant/Insurance has come in the appeal on the short ground that income of the deceased has been taken on the higher side whereas it should have been taken as income of unskilled labourer as she was working as a maid servant.

Learned counsel for the respondents has referred to the judgment in the case of **United India Insurance Company Ltd. Vs. Sube Singh and Others passed in FAO No.218 of 2014** wherein, income of the deceased has been taken as Rs.9000/- as a house wife and no deduction has been made on the assessment of compensation. This matter was upheld by the Hon'ble Supreme Court. In this case, it has been observed that a house wife is something more than a mere skilled worker it would not be unreasonable to estimate the contribution of the deceased in the present case at a higher figure.

So in the light of the above judgment, the orders of the learned Tribunal does not reflect any material irregularity or perversity which warranting interference. Hence the present appeal stands dismissed.

(RITU BAHRI)
JUDGE

11.05.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No