IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3215-2016 (O&M)
Date of decision: 23.05.2018

IFFCO TOKIO GENERAL INSURANCE COMPANY LTD ... Appellant

Versus

VEENA KUMARI AND ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Ms. Vandana Malhotra, Advocate
for the appellant.

Mr. Parshant Garg, Advocate for
Mr. Mohit Garg, Advocate
for respondents No.5 and 6.

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

The insurance company has filed the instant appeal to challenge quantum of compensation assessed by the Tribunal on account of death of Ashwani Kumar in a motor vehicular accident that took place on 12.07.2015.

The Tribunal has awarded compensation of Rs.51,82,981/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.46,806/-
2. Addition in income for future prospects	15%
3. Annual income	Rs.6,45,922/-
4. Deduction for income tax	Rs.36,000/-
5. Multiplier	11
6. Deduction for personal expenses	1/4th

7. Loss of dependency	Rs.50,31,862/-
8. Expenses on funeral	Rs.20,000/-
9. Loss of consortium	Rs.1,00,000/-
10. Medical expenses	Rs.31,119/-

Counsel for the insurance company has assailed assessment on three counts. The first submission made by counsel is that income tax deducted by the Tribunal is on lower side. Compensation allowed under conventional heads is liable to be restricted to Rs.70,000/- in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**. The next submission made by counsel is that the Tribunal has allowed deduction for personal expanses to the tune of 1/4th but the same should be 1/3rd. To bring home her contention, it is argued that all the three children left behind by the deceased are major. Shekhar Kumar, one of the claimants appeared in the witness box and admitted that earlier he was working in Dubai, therefore, he cannot be held to be dependent upon income of the deceased.

Counsel for the appellant would also argue that as the deceased was to retire within few years of his death, split multiplier is required to be applied.

Counsel representing respondents No.5 and 6 has not made any submission with regard to quantum of compensation assessed by the Tribunal. However, there is no representation on behalf of respondents No.1 to 4, earlier being represented by a counsel.

Contention with regard to applying split multiplier is rejected in the light of judgment of Hon'ble the Supreme Court **Puttamma and others v. K.L. Narayana Reddy and another, (2013) 15 SCC 45.** Further reference in this context can be made to judgment of this Court **United India Insurance Co. Ltd. Vs. Saroj and others**, FAO No.2931 of 2016 and other connected case, decided on 07.09.2017.

The Tribunal has taken into consideration the entire salary of Rs.46,806/- per month for computing loss of dependency. At this rate, annual salary of the deceased would be Rs.5,61,672/- (Rs.46,806 x 12). After deducting income tax (Rs.37,334/-), annual loss of dependency comes to Rs.5,24,338/-. Claimants shall be entitled to benefit of future prospects @ 15%. Multiplier adopted by the Tribunal is affirmed.

The application for compensation was filed by the widow, Shika Sharma, daugher, Shekhar Kumar and Mohit Kumar, sons of deceased Ashwani Kumar. Shekhar Kumar, the elder son of the deceased appeared in the witness box to establish plea of the claimants for grant of adequate compensation. Though he has admitted that earlier he was working in Dubai but he had categorically deposed that at the relevant time he was unemployed. In the given scenario, deduction for personal expenses allowed by the Tribunal cannot be faulted with. In this manner, loss of dependency comes to Rs.49,74,656/- [(Rs.5,24,338 x 11) + (15% future prospects) – (1/4th deduction for personal expenses)].

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitled 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/-

A sum of Rs.31,119/- towards medical expenses allowed by the Tribunal is affirmed.

Total compensation is Rs.50,75,775/-. Compensation is reduced to the extent of Rs.1,07,206/- (51,82,981 – 50,75,775). The insurance company shall be entitled to recover the excess amount, if already paid, by filing an application before the Tribunal.

Disposed of accordingly.

(REKHA MITTAL)
JUDGE

23.05.2018
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Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No