In the High Court of Punjab and Haryana at Chandigarh

Date of Decision:16.4.2018

FAO No. 3245 of 2016(O&M)

Shriram General Insurance Company Limited

---Appellant

vs.

Leelu Ram and others

---Respondents

FAO No. 1869 of 2017(O&M)

Leelu Ram and another

---Appellants

vs.

Alisher and another

---Respondents

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr. Puneet Jain, Advocate
for the appellant-insurance company

Ms. Sunita Nambiar, Advocate
for Mr. Virendra Rana, Advocate
for the claimants in FAO No. 1869 of 2017
for respondents No. 1 and 2 in FAO No. 3245 of 2016

None for respondent No. 1 in FAO-1869 of 2017

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Rekha Mittal, J.

This order will dispose of FAO Nos. 3245 of 2016 and 1869 of 2017 as these have emerged out of the same award dated 17.3.2016 passed by the

Motor Accidents Claims Tribunal, Mewat (in short "the Tribunal") whereby compensation has been awarded on account of death of Rakhi Devi in a motor vehicular accident that took place on 29.7.2015.

FAO No. 3245 of 2016 has been filed by Shriram General Insurance Company Limited (hereinafter to be referred as "the insurance company") whereas FAO No. 1869 of 2017 has been filed by the claimants seeking enhancement of compensation.

Counsel for the insurance company has informed that the appeal has been filed by the insurance company to assail quantum of compensation assessed by the Tribunal.

FAO No. 3245 of 2016 and

FAO No. 1869 of 2017

The Tribunal has awarded compensation of Rs. 23,45,000/-, detailed hereunder:-

Monthly value of services of the deceased	Rs. 10,000/-
Addition in income for future prospects	50%
Multiplier	16
Deduction for personal expenses	1/3rd
Loss of dependency	Rs. 19,20,000/-
Funeral expenses	Rs. 25,000/-
Loss of estate	Rs. 1,00,000/-
Loss of expectations of life	Rs. 1,00,000/-
Loss of love and affection	Rs. 1,00,000/-
Loss of consortium	Rs. 1,00,000/-

Counsel for the insurance company would urge that income of the deceased assessed by the Tribunal is on higher side and liable to be reduced. As income of the deceased has been assessed being a housemaker, addition in income for future prospects may not be allowed more particularly in the circumstances that no deduction for personal expenses is made in the case of death of a house maker. Compensation awarded under conventional heads needs to be restricted to Rs. 55,000/- in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270.**

Counsel representing the claimants, on the contrary, has prayed for enhancement of compensation.

I have heard counsel for the parties, perused the paper book particularly the award.

The application for compensation has been filed by husband and son of the deceased who appears to be major. The occurrence in question took place on 29.7.2015. Taking a clue from the judgment passed by this court in **United India Insurance Company Limited vs. Sube Singh and others** FAO No. 218 of 2014 decided on 15.1.2014 that stood affirmed by Hon'ble the Supreme Court in petition for Special Leave to Appeal (Civil) No. 14334 of 2014 (United India Insurance Company Limited vs. Sube Singh and others) decided on 8.9.2014, value of services of the deceased assessed by the Tribunal is affirmed. However, claimants shall not be entitled to any addition in income for future prospects particularly in the circumstances that no deduction for personal expenses would be made. The Tribunal has applied correct multiplier. In this manner, loss of dependency comes to Rs. 10,000 x12x16= Rs.19,20,000/-.

Compensation awarded by the Tribunal under conventional heads is modified to the effect that the claimants are entitled to Rs. 55,000/- i.e. Rs. 40,000/- for loss of consortium and Rs. 15,000/- for expenses on funeral/last rites.

Total compensation comes to Rs. 19,75,000/- and compensation awarded by the Tribunal is reduced to the extent of Rs. 3,70,000 (23,45,000-19,75,000). The insurance company shall be entitled to recover the excess amount, if already paid to the claimants, by filing an appropriate application before the Tribunal.

For the foregoing reasons, appeal filed by the insurance company is partly allowed in the aforesaid terms. As a natural corollary, appeal filed by the claimants is dismissed.

(Rekha Mittal)
Judge

16.4.2018
paramjit

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