In the High Court of Punjab and Haryana at Chandigarh

FAO No. 6793 of 2014(O&M)
Date of Decision: 23.4.2018

Shri Ram General Insurance Company Limited

---Appellant

versus

Raj Kumari and others

---Respondents

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

Present: Mr. Rajat Garg, Advocate
for Mr. T.K.Joshi, Advocate
for the appellant-insurance company

None for the claimants.

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<u>Rekha Mittal, J.</u>

The present appeal directs challenge against award dated 3.2.2014 passed by the Motor Accidents Claims Tribunal, SAS Nagar Mohali (in short "the Tribunal") whereby compensation has been awarded on account of death of Gourav Singh alias Gourav Chauhan in a motor vehicular accident that took place on 18.8.2010.

Counsel for the insurance company would inform, at the outset, that appeal has been preferred to assail quantum of compensation assessed by the Tribunal.

The Tribunal has assessed compensation to the tune of Rs.

22,56,315/-, detailed hereunder:-

Monthly income of the deceased	Rs. 15,000/-
Addition in income for future prospects	30%
Deduction of personal expenses	1/3rd
Multiplier	14
Loss of dependency	Rs. 21,84,000/-
Funeral expenses	Rs. 25,000/-
Loss of estate	Rs. 25,000/-
Transportation of dead body	Rs. 5,000/-
Medical expenses	Rs. 17,315/-

Counsel for the insurance company would argue that as the deceased was a student of Ist year of B-Pharmacy, income assessed by the Tribunal is on higher side. As the deceased was unmarried son of Smt. Raj Kumari widowed mother of Gourav Singh @ Gourav Chauhan, admissible deduction for personal expenses should be 50%.

There is no representation on behalf of the claimants earlier being represented by a counsel.

The Tribunal in para 11 of the award has noticed that the deceased was studying in the first year of B-Pharmacy and on completion of the degree would have got employment and earned at least Rs. 15,000/- per month which was taken as notional income. The occurrence in question took place on 18.8.2010. The minimum wage of a skilled worker at the relevant time was less than Rs. 5000/- per month. Taking into consideration educational qualification of the deceased, his income is assessed at Rs. 10,000/- per month. Claimants shall be entitled to increase in income for future prospects @ 40%.

The Tribunal has applied deduction for personal expenses to the extent of 1/3rd. The deceased left behind family consisting of his widowed mother and three sisters namely Priyanka, Sarika and Vishakha aged 24, 17 and 13 years respectively. Hon'ble the Supreme court in **Smt.Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298** has held that if the deceased has left behind his widowed mother and large number of siblings, the Tribunal can deviate from deduction of 50% for personal expenses of an unmarried person. Counsel for the insurance company has failed to point out any materials on record that either of the four claimants was gainfully employed or the family had any other source of income. In the given scenario, I do not find any reason to interfere in findings of the Tribunal deducting 1/3rd for personal expenses of the deceased.

The Tribunal has applied multiplier of 14. On the basis of age of the deceased who was 20 years old, admissible multiplier would be 18. In this context, reference can be made to judgments of Hon'ble the Supreme Court **Smt.Sarla Verma and others' case (supra), Munna Lal Jain vs. Vipin Kumar Sharma 2015(3) RCR (Civil) 447** and **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270.** Amount of Rs. 17,315/- allowed by the Tribunal for medical expenses is affirmed. In this manner, loss of dependency comes to **Rs. 20,16,000/-** [10,000x12x18=21,60,000+ 8,64,000(40%)=30,24,000-10,08,000(1/3rd)].

Compensation awarded by the Tribunal under conventional heads is modified to the effect that claimants shall be entitled to **Rs. 30,000/-** i.e. Rs. 15,000/- for funeral expenses and Rs. 15,000/- for loss of estate.

Total compensation is Rs. 20,63,315/- (Rs.20,16,000 + 30,000+ 17,315), Compensation awarded by the Tribunal is reduced to the extent of Rs. 1,93,000/- (22,56,315-20,63,315).

The appeal stands disposed of in the aforesaid terms.

(Rekha Mittal)
Judge

23.4.2018
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No