IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

XOBJC-170-CII of 2017 in/and
FAO-4274-2016 (O&M)
Date of decision: 05.07.2018

UNITED INDIA INSURANCE CO. LTD. ... Appellant

Versus

KULDEEP SINGH AND ORS. ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. D.P. Gupta, Advocate for the appellant.

Mr. Ashwani Arora, Advocate
for respondents No.1 to 3/cross-objectors.

Mr. Anil Shukla, Advocate
for respondent No.5.

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.4274 of 2016 and Cross-Objections No.170-CII of 2017 as these have emerged out of the same award dated 18.03.2016 passed by the Motor Accidents Claims Tribunal, Chandigarh whereby compensation has been awarded on account of death of Surinder Kumari in a motor vehicular accident that took place on 21.06.2015.

FAO No.4274 of 2016

The sole submission made by counsel for the appellant-insurance company is that though the Tribunal had framed issue No.3

'whether the driver of the offending vehicle was not holding a valid driving licence at the time of accident' but the said issue has not been answered by the Tribunal, therefore, the matter may be remitted to the Tribunal for decision of issue No.3.

Counsel representing the respondents have got no objection, if the matter is remitted to the Tribunal to decide issue No.3.

In view of the above, the appeal preferred by the insurance company is partly allowed. The matter is remitted to the Tribunal for decision of issue No.3 on the basis of materials on record. The parties through their counsel are directed to appear before the Tribunal on 07.08.2018.

Cross-Objections No.170-CII of 2017

The claimants prayed for enhancement of compensation assessed by the Tribunal.

The Tribunal has awarded compensation of Rs.40,17,212/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.54,059/-
2. Multiplier	9
3. Deduction for personal expenses	$1/3^{rd}$
4. Loss of dependency	Rs.38,92,212/-
5. Loss of consortium	Rs.1,00,000/-
6. Expenses on funeral and last rites	Rs.25,000/-

Counsel for the claimants would argue that as the deceased was working as Section Supervisor in BSNL, claimants are entitled to benefit of future prospects @ 15%.

Counsel representing the insurance company, on the other hand, would urge that the Tribunal has not deducted income tax payable by the deceased while assessing loss of monthly dependency at Rs.54,059/-. As the deceased was 58 years old and due to retire shortly, split multiplier is liable to be applied. Another submission made by counsel is that 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.**

To refute contention of the insurance company with regard to applying a split multiplier, counsel for the claimants has relied upon the judgment of this Court **United India Insurance Co. Ltd. Vs. Baldev Singh and others, FAO No.5025 of 2015 along with connected case, decided on 23.11.2016**.

The claimants shall be entitled to benefit of increase in income for future prospects @ 15% in the light of latest judgment of Hon'ble the Supreme Court in **Pranay Sethi's case (supra)**. The Tribunal has assessed annual income of the deceased at Rs.6,48,711/- on the basis of income tax return filed by the deceased for the assessment year 2014-15. However, the Tribunal has failed to take into consideration tax liability of Rs.40,755/- duly reflected in the income tax return. After deducting liability to pay income tax of Rs.40,755/-, annual loss of dependency is calculated at

Rs.6,07,956/-. The Tribunal has rightly deducted 1/3rd for personal expenses and the same is affirmed. The plea raised by counsel for the insurance company with regard to applying split multiplier is not meritorious when the case is examined in the light of judgment of this Court **Baldev Singh and other's case (supra)**. In this manner, loss of dependency is calculated at Rs.41,94,896/- [(Rs.6,07,956 x 9) + (15% future prospects) – (1/3rd 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/-

Total compensation is Rs.42,64,896/- and the additional amount of Rs.2,47,684/- (42,64,896 - 40,17,212) shall be payable with interest @ 7.5% per annum from the date of petition till realization to Sh. Kuldeep Singh. The cross-objections are partly allowed in the aforesaid terms. The insurance company shall be liable to pay additional amount subject to determination of issue No.3.

05.07.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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