IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

202 FAO-4505-2016 (O&M)

Date of decision: 10.12.2018

SHRI RAM GENERAL INSURANCE CO LTD ... Appellant

Versus

SURESH DEVI & ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Rajbir Singh, Advocate for the appellant.
Mr. Tapan Yadav, Advocate for respondents No.1 and 2.

****

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 03.05.2016 passed by the Motor Accidents Claims Tribunal, Narnaul whereby compensation has been assessed on account of death of Neeru Bala in a motor vehicular accident that took place on 25.06.2013.

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

The Tribunal has awarded compensation of Rs.10,97,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.6000/-
2. Addition in income for future prospects	50%
3. Multiplier	18
4. Deduction for personal expenses	50%
5. Loss of dependency	Rs.9,72,000/-
6. Expenses on funeral & transpiration	Rs.25,000/-
7. Loss of love and affection	Rs.1,00,000/-

Counsel for the appellant has made two fold submissions to assail quantum of compensation assessed by the Tribunal. It is argued that the Tribunal has assessed income of the deceased by taking into consideration wage of casual labour but the minimum wage at the relevant time was approximately Rs.5000/- per month. Addition in income for future prospects should be 40% and compensation allowed under conventional heads needs reduction.

Counsel representing the claimants has supported assessment made by the Tribunal.

The deceased was 19 years old, unmarried daughter of the claimants. There is no document on record with regard to educational qualification or the deceased being involved in stitching, embroidery and agriculture work. Not only this, plea of the claimants does not find corroboration from any independent source. Taking a clue from notification issued by the State of Haryana, income of the deceased is assessed at Rs.5200/- per month. Addition in income for future prospects @ 40% is allowed, in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270.** Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.7,86,240/- [(5200 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.1,10,000/-, detailed hereunder:-

1. Loss of consortium to the parents	Rs.80,000/- (Rs.40,000/- each)
2. Expenses on last rites	Rs.15,000/-
3. Loss to estate	Rs.15,000/-

Total compensation is Rs.8,96,240/- and compensation allowed by the Tribunal is reduced to the extent of Rs.2,00,760/- (10,97,000 – 8,96,240). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an application before the Tribunal.

The appeal is partly allowed in the aforesaid terms.

(REKHA MITTAL)
JUDGE

10.12.2018
ashok

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