IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

-.-

FAO 4772 of 2016 (O&M)
Date of decision: 15.05.2018

United India Insurance Co. Limited .... *Appellant*

Versus

Kalawati and others ....*Respondents*

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

-.-

Present: Mr. Vinod Chaudhri, Advocate
for the appellant

Mr. Sandeep Goyat, Advocate
for respondents No. 1 and 2

Mr. Ajay Jain, Advocate
for respondent No. 3

-.-

Rekha Mittal, J. (Oral)

The present appeal directs challenge against award dated 11.05.2016 passed by the Motor Accidents Claims Tribunal, Hisar (in short, 'the Tribunal') whereby compensation has been awarded on account of death of Krishan son of Late Rajender in a motor vehicular accident that took place on 04.08.2014.

The Tribunal has awarded compensation of Rs.12,77,000.00, detailed hereunder:-

Monthly income of the deceased	Rs.8,000.00
Addition in income for future prospects	50%
Deduction for personal expenses	50%
Multiplier	16
Loss of dependency	Rs.11,52,000.00
Loss of love and affection	Rs.1,00,000.00

Expenses of transportation and last rites	Rs.25,000.00

Counsel for the insurance company has prayed for reduction of compensation primarily on three counts. It is argued that admissible increase in income for future prospects should be 40% as against 50%. As the deceased was more than 36 years of age (his date of birth is 05.07.1978 as recorded in driving licence Ex.R1), multiplier of 15 is available. In addition, it is argued that even multiplier of 15 should not be applied as mother of deceased, the only claimant entitled to get compensation was approximately 70 years of age. Compensation allowed under conventional heads needs to be restricted to Rs.30,000.00, in the light of judgment of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SC 1270.***

Counsel representing the claimants, on the contrary, has supported assessment made by the Tribunal. It is further argued that compensation allowed by the Tribunal cannot be reduced nor the insurance company can be held entitled to recover any payment made in excess.

As the deceased was not in the regular employment, admissible increase for future prospects would be 40%. In the driving licence Ex.R1, date of birth of the deceased has been recorded as 05.07.1978 and accordingly he was more than 36 years of age on the date of accident. Plea of the insurance company that multiplier is required to be adopted on the basis of age of mother of the deceased is misconceived and liable to be rejected. In this context, reference can be made to judgments of Hon'ble the Supreme Court ***Sarla Verma and others v. Delhi Transport Corporation and another 2009(3) R.C.R. (Civil) 77*** and ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others, (2015) 6 SCC 347.*** In this view of the matter, loss of dependency is calculated at **Rs.10,08,000.00** (Rs.14,40,000.00 i.e. 8,000.00 x 12 x 15 + Rs.5,76,000.00 (40% future prospects) – Rs.10,08,000.00 (50% deduction).

Compensation allowed under conventional heads is modified to the effect that the claimant shall be entitled to Rs.30,000.00, detailed hereunder:-

Expenses of funeral and last rites	Rs.15,000.00
Loss of estate	Rs.15,000.00

Total compensation comes to Rs.10,38,000.00 (Rs.10,08,000.00 + Rs.30,000.00) and compensation is reduced to the extent of Rs.2,39,000.00 (Rs.12,77,000.00 – Rs.10,38,000.00). As the Tribunal has allowed compensation more than what can be assessed in the given scenario and compensation cannot be a bonanza or a source of profits or largesse, I find it difficult to accept contention of the claimant that excess amount cannot be recovered by the insurance company. The excess amount, if already paid by the insurance company, can be recovered by filing an appropriate application before the Tribunal.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

15.05.2018
mohan bimbra

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