In the High Court of Punjab and Haryana at Chandigarh

FAO-5976 of 2015(O&M)
Date of Decision:27.11.2018

New India Assurance Company Limited

---Appellant

vs.

Rekha and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

***

Present: Mr. Rajneesh Malhotra, Advocate
for the appellant

***

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

The present appeal directs challenge against award dated 15.5.2015 passed by the Motor Accidents Claims Tribunal, Jind (in short "the Tribunal") whereby compensation has been assessed on account of death of Kuldeep in a motor vehicular accident that took place on 24.4.2014.

Counsel for the appellant has assailed the award both in regard to quantum of compensation as well as liability of the insurance company to pay compensation on the ground of driving licence possessed by Ram Mehar Singh, driver of the offending vehicle.

With regard to quantum of compensation, it is argued that as the deceased was 40 years of age, admissible increase for future prospects should be 25% as against 30% allowed by the Tribunal. Another submission made by counsel is that the Tribunal has allowed a sum of Rs. 1,50,000/- under conventional heads as against Rs. 70,000/- available in the light of judgment in **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270**.

With regard to driving licence, counsel has submitted that the driver had a licence to drive light motor vehicle but at the time of occurrence, the tractor was attached with trolley, a transport vehicle in view of notification issued in the year 2004. In absence of an endorsement of 'transport' on the driving licence, the driver was not competent to drive the vehicle in question and the insured is guilty of violating terms and conditions of the policy entitling the insurance company to press for right of recovery against the insured after payment of compensation to the claimants.

The contention raised by counsel with regard to future prospects to be paid at the rate of 25% is meritorious. Accordingly, loss of dependency is calculated at Rs. 10,12,500/- (6000x12x15= 10,80,000+2,70,000(25%) =13,50,000 – 3,37,500(¼)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs. 1,90,000/- in the light of judgment of Hon'ble the Supreme Court **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333,** detailed hereunder:-

Loss of consortium to claimants No. 1 to 4	Rs, 1,60,000(Rs. 40,000 each)
Loss of estate	Rs. 15,000/-

Funeral Expenses Rs. 15,000/-

Total compensation is Rs. 12,05,500/- and there is difference of only Rs. 2500/- between compensation assessed by the Tribunal and allowed in appeal. In the circumstances, compensation assessed by the Tribunal is kept intact.

Contention raised by counsel with regard to effectiveness of driving licence is misconceived and liable to be rejected when examined in the light of judgments of Hon'ble the Supreme Court **Nagashetty vs. United India Insurance Company Limited and others, 2001(8) SCC 56** and **Mukund Dewangan vs. Oriental Insurance Company Limited 2017 (7) Scale 731**.

For the foregoing reasons, the appeal is dismissed. However, nothing stated hereinbefore shall cause prejudice to right of the claimants in case they file an appeal for enhancement of compensation.

(Rekha Mittal)
Judge

27.11.2018
paramjit

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