IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision : 2.8.2018

FAO-5000-2016 (O&M)

M/s. IFFCO Tokio General Insurance Co. Ltd. ...Appellant

vs.

Smt. Baby and others ...Respondents

FAO-1707-2017 (O&M)

Girjawati ....Appellant

vs.

Shyam Sunder and others ....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Manoj Kumar Sood, Advocate
for the appellant in FAO-1707-2017
for respondent No.3 in FAO-5000-2016.

Ms. Vandana Malhotra, Advocate
for the appellant in FAO-5000-2016
for respondent No.3 in FAO-1707-2017.

Mr. G.C. Shahpuri, Advocate
for respondent No.2 in FAO-1707-2017
for respondent No.5 in FAO-5000-2016.

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AJAY TEWARI, J. (Oral)

CM-17215-CII-2016 in FAO-5000-2016

For the reasons recorded, the application is allowed. Delay of 29 days in filing the appeal is condoned.

Main cases

This order shall dispose of the aforesaid two appeals as common questions of law and facts are involved there in.

These are two appeals. One is filed by the insurance company and other is filed by the claimants.

Since limited points have been urged detailed reference to the facts is not required.

Learned counsel for the insurance company has argued that income of the deceased has been taken as Rs.12,000/- which is on the higher side and the same should have been taken as per the minimum wagers as prevalent in State of Haryana on the death of the deceased.

Counsel for the claimant-respondent No.-3 (the appellant in FAO-1707) however has argued that the statement of account PW-8/A shows monthly credits from the account of employer into the account of the deceased to the tune of Rs. 12000/- per month. Counsel for the insurance company has very fairly accepted that the account statement does reflect so.

In the circumstances, no fault can be found with the computation of the income as Rs. 12000/-.

The second argument is that as per the Constitution Bench judgment of the Supreme Court in the matter of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*** the compensation for conventional heads had to be pegged at Rs. 70,000/- whereas in this case Rs.2,25,000/- has been awarded. This point is well taken and compensation under the conventional heads is reduced by Rs. 1,55,000/- on account of the excess payment made under the conventional heads.

Consequently, FAO No. 5000-2016 is allowed in the above terms and FAO-1707-17 where enhancement was prayed for is dismissed.

Since the main cases have been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

2.8.2018
anuradha

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No