IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision: January 17, 2018

1. FAO No.7787 of 2014 (O&M)

National Insurance Co.Ltd.

...Appellant

Versus

Sanjana Kaura & others

...Respondents

2. FAO No.6298 of 2014 (O&M)

Sanjana Kaur & others

...Appellants

Versus

Rupinder Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Gopal Mittal, Advocate,
for the appellant in FAO No.7787 of 2014 &
respondent No.3 in FAO No.6298 of 2014.

Mr.Kushagra Mahajan, Advocate,
for the appellants in FAO No.6298 of 2014 &
for respondent Nos.1 to 3 in FAO No.7787 of 2014.

Mr.B.S.Jaswal, Advocate,
for respondent Nos.4 & 5 in FAO No.7787 of 2014 &
for respondent Nos.1 & 2 in FAO No.6298 of 2014.

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AMIT RAWAL, J. (Oral)

This order of mine shall dispose of two FAOs bearing No.7787 of 2014 and 6298 of 2014 as the common questions of law and facts are involved. FAO No.7787 of 2014 has been preferred by the Insurance Company on account of the quantum of compensation and future prospects, whereas FAO No.6298 of 2014 is preferred by the claimants for enhancement of compensation.

Mr.Gopal Mittal, learned counsel for the appellant-Insurance Company in FAO No.7787 of 2014 submits that in Para 22 of the award, the Tribunal had taken the income of the deceased as ₹2,12,686/- by taking into consideration the income tax return for the assessment year 2012-13. There is misreading of the same as the income tax return Ex.A2 shows the income as ₹1,77,610/-. Moreover, the Tribunal had given 30% as future prospect and ₹2,30,000/- under conventional heads, which should be ₹70,000/- as per judgment of Hon'ble Supreme Court in ***SLP (Civil) No.25590 of 2014*** titled as ***"National Insurance Company Ltd. V/s Pranay Sethi and others".***

On the contrary, Mr.Kushagra Mahajan, learned counsel for the appellants in FAO No.6298 of 2014 submits that out of the two children, appellant No.2 has become major, but appellant No.1-widow is facing difficulty to bring up appellant No.3 as the compensation i.e. the share of the minor children has been ordered to be deposited in the FDR and, therefore, confines his prayer for the purpose of disbursement of interest to appellant No.1-widow to bring up the child.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submission of Mr.Mittal qua the income tax return Ex.A2 as the Tribunal has rightly taken the income of the deceased as ₹2,12,686/- per annum for the assessment year 2012-13, therefore, I take the income of the deceased as ₹2,12,686/-. However, the multiplier and the deduction ordered are perfect.

As per the ratio decidendi culled out in ***Pranay Sethi's case (supra),*** future prospect should be 25% instead of 30% and the compensation awarded under conventional heads to the tune of ₹2,30,000/- is liable to be reduced to ₹70,000/-. Ordered accordingly. The award of the Tribunal is modified in the aforementioned manner. Accordingly, I take the income of the deceased as ₹17,723/- per month (₹2,12,686/- per annum) and apply a multiplier of `15', much less, deduction of 1/3rd to assess the loss of dependency as ₹26,58,450/-. Thus, in all, the compensation payable shall be ₹27,28,450/-.

However, as far as the appeal of the claimants is concerned, since appellant No.2 has become major, he has a right to withdraw the FDR in the manner and mode he wants to do. Since appellant No.3 is minor, the interest accruing from her share of FDR, in my view, is liable to be paid to appellant No.1- widow for her up bringing, being her mother. The appeal of the claimants is allowed in the aforementioned terms.

Accordingly, the award is modified. Appellant No.1 in FAO No.6298 of 2014 is entitled to withdraw the interest of the FDR of appellant No.3.

Mr.Mittal has also submitted that the amount of compensation has been deposited before the Tribunal. They are entitled to seek refund in view of the findings rendered by this Court and whatever amount is due towards the claimants is ordered to be disbursed to them.

The statutory amount of ₹25,000/- already deposited is ordered to be refunded to the Insurance Company.

January 17, 2018 **(AMIT RAWAL)**
ramesh **JUDGE**

Whether speaking/reasoned **Yes/No**

Whether Reportable: **Yes/No**