IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.7788 of 2014 (O&M)
Date of Decision: 02.07.2018

Shri Ram General Insurance Company ....Appellant

Vs.

Manoj Kumar and others ....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Sanjiv Goyal, Advocate, for the appellant.

Mr.Ashwani Arora, Advocate, for respondent No.1.

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RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the appellant/Insurance Company (for short 'the appellant'), against award dated 17.05.2014, passed by the learned Motor Accident Claims Tribunal, Chandigarh (for short, 'the Tribunal') vide which compensation to the tune of Rs.28,37,979/- was awarded to the claimant on account of death of his mother Pushpa Lata in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 11.04.2012 at about 1:30 P.M. deceased Smt.Pushpa Lata was going on the road leading from Attawa Chowk towards the chowk of Section 36/37/41/42, Chandigarh sitting in a rickshaw, which was being paddled by a rickshaw puller at slow speed, on left side of the road. When the rickshaw reached near Bus Stop Sector-42, Chandigarh, three wheeler bearing registration No.PB-65-P-4077 came at fast speed from behind and hit the rickshaw after which it hit an active scooter being driven by Mukesh Sharma. After causing the accident, the three wheeler being registration No.Pb-65-P-4077 came at fast speed from behind and hit the rickshaw after which it hit an Activa scooter being driven by Mukesh Sharma. As a result of the accident, Smt.Pushpa Lata fell down on the road and received serious injuries. They both were immediately taken to GMSH, Sector 16, Chandigarh, from where Smt.Pushpa Lata was referred to PGI, Chandigarh, where she died due to injuries sustained in the accident. A formal FIR No.104 dated 11.04.2012 for the offence under Sections 279/337 IPC has been registered.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 45 years old as per her postmortem report Ex.P30 and the claimants have produced on the record any salary certificate regarding income of the deceased. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company.

Sr.No.	Heads of compensation	Amount
1	Income as per salary certificate Ex.P1	Rs.21,664/- p.m.
2.	Annual income	Rs.21,664/- X 12= Rs.2,59,968/-
3.	Future prospect 30%	Rs.2,59,968/- + = Rs.77,990/-= Rs.3,37,958/-
4.	Deduction of income Tax	Rs.3,37,958/- --- Rs.13,383/-= Rs.3,24,575/--
5.	Deduction on personal expenses	Rs.3,24,575/- --- Rs.1,08,192/-= Rs.2,16,383/-
6.	Total loss of dependency after applying the multiplier	Rs.2,16,383/- X 13= Rs.28,12,979/-
7.	Funeral Expenses	Rs.25,000/-
	Total	Rs.28,37,979/-

The appellant/Insurance Company has come up in appeal on the ground that claimant/respondent No.1 is a major son of the deceased and cannot be taken to be dependent on her. This aspect has been considered in the case of **New India Assurance Company Limited Vs. Vinish Jain and others (2018) 1 SCeJ 490,** where deceased was 78 years old and claimants were two major sons and two granddaughters. In this case, Hon'ble Supreme court while assessing the compensation has held that major sons have their own source of income and were not dependent on the deceased and two granddaughters were primarily dependent on their father and not on their grandfather. Therefore, 50% deduction was made on the income i.e. 3,64,500/- per annum towards personal expenses and after applying the multiplier of 5, the compensation works out to Rs.9,11,250/- and after modifying the award, claim petition was dismissed.

Learned counsel for the claimant/respondent No.1 has referred to the judgment passed in the case of **Montford Brothers of St.Gabriel and Anr. Vs. United India Insurance Company and Anr. Etc. 2014 ACJ (SC) 667**, where, it has been held that legal representatives are entitled for compensation as claimant under Section 166 of the Motor Vehicles Act. The ratio of the above cited case is applicable in the present case as the claimant is her major son.

A perusal of the Award shows that learned Tribunal has recorded the findings that the deceased was mother of the claimant who was initially working as Sweeper in temple on monthly salary of Rs.1200/-. Thus it was not a case where the major son was drawing salary and would not look towards his mother for financial help, hence, $1/3^{rd}$ cut is rightly imposed. The claim of the claimant on account of death of his mother has been rightly assessed as Rs.28,37,979/-.

So in the light of the discussion, the orders of the learned Tribunal does not reflect any material irregularity or perversity which warranting interference. Hence the present appeal stands dismissed.

(RITU BAHRI)
JUDGE

02.07.2018
anil

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