IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.6916 of 2015
Date of Decision: 18.04.2018

Reliance General Insurance Company Ltd. ....Appellants

Vs.

Kishanwati and others ....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.R.K.Bashamboo, Advocate, for the appellant.

Mr.Vikas Kumar, Advocate, for the respondents No.1 to 6

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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 08.07.2015, passed by the learned Motor Accident Claims Tribunal, Faridabad (for short, 'the Tribunal') vide which compensation to the tune of Rs.48,25,000/- was awarded to the claimants on account of death of Rajender i.e. husband of claimant-Kishanwati.

On 18.03.2013, Rajender was returning from Visakhapattanam (Andhra Pradesh) after loading goods for Sawai Madhopur, Delhi and Noida (U.P) in his Eicher Canter bearing No.HR-38Q-8698 which was being driven by him on the correct side of road and at a moderate speed. At about 5/5:30 p.m., when he reached at NH-12 New Road near Kalyakhedi, Village Singhpura Mandana (Rajasthan) a truck bearing No.RJ-02-GA-4814 being driven by respondent No.1 rashly and negligently and at a high speed hit the canter from the opposite side as a result of which Rajender suffered grievous injuries all over his body and died at the spot. An FIR No.38 dated 18.03.2013 for the offence under Section 279, 304A IPC has been registered on the statement of Shiv Kumar brother of the deceased.

The Insurance Company is not disputing the finding on issue No.1 i.e. as to whether deceased died due to injuries sustained in the accident which took place on 18.03.2013 on account of rash and negligent driving of offending vehicle/Truck No.RJ-02GA-4814 driven by respondent

No.1 as the aforesaid FIR Ex.P1 and challan Ex.P2 have been registered against the driver/respondent No.1. The compensation assessed by the learned Tribunal is as under:-

Sr.No.	Heads of compensation	Amount
1	Income	Rs.20,000/- per month
2.	Future prospect 50%	Rs.20,000/- + Rs.10,000/-= Rs.30,000/-
3.	Annual loss of dependency	Rs.30,000/- X 12= Rs.3,60,000/-
4.	Income tax deduction	Rs.3,60,000/- ---Rs.10,000/-= Rs.3,50,000/-
5	Deduction 1/4th on personal expenses	Rs.3,50,000/- ---- Rs.75,000/-= Rs. 2,62,500/-
6.	Annual loss of dependency after applying multiplier	Rs.2,62,500/- X 16= Rs.42,00,000/-
7.	Loss of estate	Rs.1,00,000/-
8.	Loss of love and affection (appellants N.2 to 6)	Rs.5,00,000/-
9.	Funeral expenses	Rs.25,000/-
	Total	Rs.48,25,000/-

The appellant/Insurance Company is challenging the impugned Award only on the ground of quantum. The first ground is that income of the deceased was taken as Rs.20,000/- per month is on the higher side. A perusal of the Award shows that deceased was owner of two canters i.e. bearing No.HR-38Q-8698 and another bearing No.HR-29V-0436. He had also tendered copy of driving licence Mark A-1, copy of RC Mark A-2 and route permit Mark A-7, Mark A-8, Mark A-9, RC of Center bearing No.HR-29V-0436 Mark A-10, route permit Mark A-11 and Mark A-12. Besides this, claimants have also examined PW-4 Shambhu Dayal, Office Superintendent, B.P.Senior Secondary School, NIT, Faridabad, who deposed that the sons of the deceased was admitted in their school and the deceased was paying their tuition fees as Rs.21,300/- per annum as per original fee statements i.e. Ex.P5 to Ex.P7. A perusal of driving licence Mark A-1 shows that the deceased was authorized to drive LMV-NT-Car, TRV Rigid Chasi, TRV-PSV-Bus, meaning thereby, the deceased was a professional driver and had experience to drive transport vehicles including heavy vehicles.

Keeping in view that the deceased was owner of two canters and grounds mentioned above, his income was taken by the learned Tribunal as Rs.20,000/- per month, is not on the higher side and no modification is required to be made with regard to this finding. However, compensation on other head is required to be modified in view of the judgment of Hon'ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi and others SLP(C) 25590 of 2014 decided on 31.10.2017**. The compensation is reassessed as under:

Sr.No.	Heads of compensation	Amount
1	Income	Rs.20,000/- per month
2.	Future prospect 40%	Rs.20,000/- + Rs.8,000/-= Rs.28,000/-
3.	Deduction 1/4th on personal expenses	Rs.28,000/- ---- Rs.7,000/-= Rs.21,000/-
3.	Annual loss of dependency after applying multiplier	Rs.21,000/- X 12 X 16= Rs.40,32,000/-
4.	Conventional heads	Rs.70,000/-
	Total	Rs.41,02,000/-

It is made clear that, vide order dated 01.12.2015, it was ordered that stay on condition that 50% of the amount as ordered is deposited before the Tribunal within a period of 6 weeks.

Resultantly, the modified amount of compensation of Rs.41,02,000/- shall be payable within a period of forty five days from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in a case of **Shri Nagar Mal and Ors Vs. The Oriental Insurance Company Ltd. And ors. in Civil Appeal No.448 of 2018**. Remaining conditions of disbursal of amount shall remain unaltered. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

(RITU BAHRI)
JUDGE

18.04.2018
anil
Whether speaking/reasoned Yes/No
Whether reportable Yes/No