IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

220 FAO-8521-2014 (O&M)

Date of decision: 11.07.2018

SHRI RAM GENERAL INSURANCE COMPANY LTD ... Appellant

Versus

RAM LAL & ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sanjeev Goyal, Advocate for the appellant.

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REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 02.07.2014 passed by the Motor Accidents Claims Tribunal, Gurdaspur whereby compensation has been assessed on account of death of Shani Kumar @ Sonu in a motor vehicular accident that took place on 22.06.2012.

The Tribunal has awarded compensation of Rs.10,32,068/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.7000/-
2. Multiplier	17
3. Deduction for personal expenses	1/3rd
4. Loss of dependency	Rs.9,52,068/-
5. Expenses on funeral	Rs.35,000/-
6. Loss of love and affection etc.	Rs.45,000/-

Counsel for the insurance company would inform that appeal has been preferred to assail quantum of compensation assessed by the Tribunal. It is argued that the Tribunal has assessed income of the deceased at Rs.7000/- per month but the minimum wage of a skilled worker was approximately Rs.5000/-, at the relevant time. As the application for compensation has been filed by parents of the deceased, deduction for personal expenses should be 50%. Compensation allowed under conventional heads needs to be restricted to Rs.30,000/- in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**.

Perusal of the findings recorded by the Tribunal would reveal that the claimants produced on record certificate Ex.A3 as an evidence of the deceased having completed 12^{th} class in May, 2009. There is no evidence with regard to avocation and income of the deceased. At the same time, there is nothing on record suggestive of the fact that the deceased was suffering from any disability to impair his capacity to work and earn for his family. Taking a clue from the minimum wage of a skilled worker available at the relevant time coupled with educational qualification of the deceased, income of the deceased is assessed at Rs.6000/- per month. Claimants shall be entitled to benefit of future prospects @ 40%. Deduction for personal expenses would be 50% and appropriate multiplier to be 18 in the light of judgment of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77**. In this manner, loss of dependency is calculated at Rs.9,07,200/- [(Rs.6000 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation awarded by the Tribunal is restricted to Rs.30,000/-, i.e. Rs.15,000/- for funeral expenses and Rs.15,000/- for loss to estate.

Total compensation is Rs.9,37,200/-. Compensation awarded by the Tribunal is reduced to the extent of Rs.94,868/- (10,32,068 - 9,37,200). The excess amount, if already paid, may be recovered by the insurance company by filing an appropriate application before the Tribunal.

The appeal is disposed of in the aforesaid terms.

(REKHA MITTAL)
JUDGE

11.07.2018
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Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No