IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

XOBJC-14-CII-2017 in/and
FAO No.7772 of 2015 (O&M)

Date of decision: 16.02.2018

National Insurance Co. Ltd. ... Appellant

Versus

Priya and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Gopal Mittal, Advocate
for the appellant.

Mr. Ishan Cooner, Advocate for
Mr. J.S. Cooner, Advocate
for respondents No.1 to 4/cross-objectors.

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REKHA MITTAL, J. (Oral)

CM No.24387-CII of 2015

Heard.

Allowed as prayed for. Delay of 16 days in filing the appeal stands condoned.

Main Case along with cross objections

This order will dispose of FAO No.7772 of 2015 and Cross objections No.14-CII of 2017 as these have emerged out of the same award dated 17.07.2015 passed by the Motor Accidents Claims Tribunal, SAS Nagar, Mohali whereby compensation has been awarded on account of death of Sushil Kumar Mehta in a motor vehicular accident that took place on 28.09.2013.

Counsel for the appellant-insurance company would fairly inform that appeal has been preferred to assail quantum of compensation assessed by the Tribunal. On the other hand, cross-objections have been preferred by the claimants seeking enhancement of compensation. That being so, entire controversy in the present case revolves around assessment of compensation made by the Tribunal.

The Tribunal has allowed compensation of Rs.25,07,756/- (rounded of to Rs.25,08,000/-), detailed hereunder:-

1. Monthly income of the deceased	Rs.10,566/-
2. Addition in income for future prospects	50%
3. Multiplier	16
4. Deduction for personal expenses	1/4th
5. Loss of dependency	Rs.22,82,756/-
6. Expenses on funeral	Rs.25,000/-
7. Loss of consortium	Rs.1,00,000/-
8. Loss of love and affection	Rs.1,00,000/-

Counsel for the insurance company has two fold submissions to make. It is argued that deceased was working as Senior Assistant in Purchase Department with Brooks Laboratories Ltd. at salary of Rs.10,566/-. As per the salary certificate Ex.PW2/1, payment under three heads i.e. uniform allowance Rs.659/-, washing allowance Rs.120/- and petrol allowance Rs.1100/- was made to the deceased which is personal in nature and liable to be deducted for computing income of the deceased. In addition, it is argued that claimants are entitled to benefit of future prospects @ 40% in place of 50% and compensation awarded under conventional heads needs to be restricted to Rs.70,000/- in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270.**

Counsel for the cross-objectors has supported assessment of compensation both qua loss of dependency as well as under conventional heads, stated to be allowed in terms of judgments of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77** and **Rajesh and others Vs. Rajbir Singh and others, 2013 (3) RCR (Civil) 170.**

There is no dispute that the deceased was an employee with Brooks Laboratories Ltd. at a gross salary of Rs.10,566/- per month. After deductions for PF and ESI, his net salary was Rs.9683/- per month. Deceased was paid the aforesaid allowances depicted in the salary certificate Ex.PW2/1.

The question for consideration is whether the amount paid to the deceased for uniform allowance, washing allowance and petrol allowance is amenable to deduction for computing loss of monthly income.

Hon'ble the Supreme Court in **National Insurance Company Ltd. VS. Indira Srivastava and others, 2008(1) RCR (Civil) 359** and **Manasvi Jain VS. Delhi Transport Corporation, 2014(3) RCR (Civil) 313** has held that the amount paid to the deceased by his employer by way of perks is to be included for computation of his monthly income as that would have been added to his monthly income by way of contribution to the family as contradistinguished to the ones which were for his benefit. In this view of the matter, I find myself unable to accept contention of the insurance company that the aforesaid allowances paid to the deceased are liable to be deducted for computing monthly loss of dependency. The Tribunal has rightly taken into consideration gross salary at Rs.10,566/- per month for computing loss of dependency. However, in the light of latest judgment of Hon'ble the Supreme Court **Pranay Sethi's case** (supra), admissible increase for future prospects would be 40%. The multiplier and deduction for personal expenses allowed by the Tribunal are affirmed. In this manner, loss of dependency comes to Rs.21,30,105/- (Rs.10,566 x 12 x 16) + (40% future prospects) - (1/4th deduction for personal expenses).

Compensation awarded under conventional heads is modified in the light of judgment **Pranay Sethi's case** (supra) and the claimants shall be entitled to Rs.70,000/- under conventional heads, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

Total compensation is Rs.22,00,105/- and compensation awarded by the Tribunal is reduced to the extent of Rs.3,07,651/- (25,07,756 – 22,00,105).

For the foregoing reasons, the appeal filed by the insurance company is partly allowed in the aforesaid terms. As a natural corollary, cross-objections filed by the claimants are dismissed leaving the parties to bear their own costs.

16.02.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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