IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.6755 of 2016 (O&M)
Date of Decision: 10.05.2018

Iffco Tokio General Insurance Company ....Appellant

Vs.

Neelam and others ....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Ankur Gupta, Advocate, for the appellant.

Mr.Gopal Sharma, Advocate, for respondents No.1 to 4.

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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 26.07.2016, passed by the learned Motor Accident Claims Tribunal, Jhajjar (for short, 'the Tribunal') vide which compensation to the tune of Rs28,12,400/- was awarded to the claimant on the death of Surender Sharma in a motor vehicular accident.

The Tribunal held that the deceased was 32 years old and the claimants have produced his pay slips (Ex.P6 to Ex.P9) which reveals that the deceased was getting the salary of Rs.14,930/- p.m. As such his income has been taken as Rs.14,930 per month. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company. The compensation has been assessed as under:

Sr.No.	Heads of compensation	Amount
1.	Income	Rs.14930/- per month
2	Future prospect 50%	Rs.14,930/- + Rs.7465/-=

		Rs.22,395/-
3.	Deduction 1/3rd	Rs.22,395/- --- Rs.7465/-= Rs.14,930/-
4	Total loss of dependency after applying the multiplier	Rs.14,930/- X 12 X 15= Rs.26,87,400/-
5.	Funeral expenses	Rs.25,000/-
6.	Loss of consortium	Rs.1,00,000/-
	Total	Rs.28,12,400/-

Learned counsel for the appellant/Insurance Company contends that the compensation awarded by the Tribunal is on the higher side as in the salary slips i.e. Exhibits P-6 to P-9, income of the deceased to be Rs.14,930/- per month which the gross monthly salary of the deceased and it has erred in not deducting the conveyance allowance and employees contribution towards ESI and EPF which is Rs.3100/- and deserves to be reduced, in view of the judgment "**National insurance Company Ltd. Vs. Pranay Sethi and others passed in SLP (Civil) No.25590 of 2014**. On the other hand, the learned counsel for the respondents have vehemently opposed the present appeal.

I have heard learned counsel for the parties and perused the record.

A perusal of the salary slips shows that deceased gross income is Rs.14,928/- rounded off Rs.14,930/- and learned MACT while assessing the compensation, the contribution amount towards ESI and EPF i.e. Rs.3100/- has not been deducted. As such, after deducting the same from the gross salary, total monthly salary of the deceased is taken as Rs.11,830/- and in view of the judgment "**National insurance Company Ltd. Vs. Pranay Sethi and others passed in SLP (Civil) No.25590 of 2014**, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1.	Income	Rs.11,830/- per month
2	Future prospect 40%	Rs.11,830/- + Rs.4732/-= Rs.16,562/-
3.	Deduction 1/4rd	Rs.16,562/- --- Rs.4140/-= Rs.12,422/-
4	Total loss of dependency after applying the multiplier	Rs.12,422/- X 12 X 15= Rs.22,35,960/-
5.	Conventional heads	Rs.70,000/-
	Total	Rs.23,05,960/-

Resultantly, the modified amount of compensation of Rs.23,05,960/- -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 Limited and Others passed 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

10.05.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No