**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.9724 of 2014 (O&M)
Cross Objections No.108-CII of 2015
Date of Decision: May 28, 2018

TATA AIG General Insurance Company Ltd. ...Appellant
Versus
Lijja Ram and others ...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Rajesh K.Sharma, Advocate for the appellant.

Mr.Ashit Malit, Advocate for
the claimants/respondents – cross-objectors.

Mr.Sushil Bhardwaj, Advocate
for respondent No.6 – driver and owner.

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HARINDER SINGH SIDHU, J.

This judgment shall dispose of FAO No.9724 of 2014 filed by TATA AIG General Insurance Company Limited as also the Cross-objections filed by the claimants – respondent No.1 to 5.

The insurer has filed the present appeal challenging the award dated 4.9.2014 passed by the Motor Accident Claims Tribunal, Kaithal (for short 'the Tribunal'), whereas, the cross-objections have been filed by the claimants - respondent No.1 to 5 for enhancement of compensation.

Brief facts as disclosed in the claim petition are that on 4.12.2012 in the area of Village Sagga, a vehicular accident took place involving Car No.HR51AN-3545 (herein for short 'the offending vehicle'), wherein, Pawan Kumar lost his life and few others received injuries. The accident was alleged to have been caused due to rash and negligent driving of the offending vehicle. FIR regarding the accident was also registered in Police Station Taraori. .

On a claim petition having been filed by the legal representatives of deceased Pawan Kumar, the Tribunal awarded the compensation as under:-

Total monthly income	*Rs.10,000/-*
50% future prospects	*Rs.5,000/-*
1/3rd deduction	*Rs.5,000/-*
Net Income	*Rs.10,000/-*
Total yearly income Rs.10,000 x 12 = 1,20,000/-	*Rs.1,20,000/-*
Multiplier of 18 i.e. Rs.1,20,000 x 18	*Rs.21,60,000/-*
Transportation and funeral expenses	*Rs.50,000/-*
Loss of love and affection	*Rs.25,000/-*
Loss of Estate	*Rs.50,000/-*
Total	*Rs.22,85,000/-*

Challenging the Award, Ld. Counsel for the appellant – Insurer has contended that the compensation awarded is on higher side. The increase in the income of the deceased on account of 'future prospects' should have been only 40%, rather than 50% as granted by the Tribunal. As the deceased was bachelor, the deduction towards personal living expenses should have been ½ and not 1/3rd as done by the Tribunal. The multiplier was required to be applied according to the age of the parents of the deceased and that the amount awarded under the conventional heads is on higher side.

On the other hand, Ld. Counsel for the claimant/ cross-objector has contended that the Tribunal fell in error in determining the monthly income of the deceased at Rs.10,000/-, despite there being sufficient evidence on record to prove that he was earning Rs.15,000/- per month.

I have heard Ld. Counsel for the parties and perused the records.

The arguments of Ld. Counsel for the appellant – insurer in so far as the deduction towards personal living expenses, grant of increase in income towards 'future prospects' and the amount awarded under the

Conventional heads are concerned, the same deserve acceptance. It is settled that in case the deceased is a bachelor, the deduction on account of personal living expenses would be 50%. As the deceased was aged 24 years increase towards 'future prospects' should have been 40%. The amount under the conventional heads could not be more than Rs.15,000/-.

Coming to the argument regarding application of multiplier while assessing the loss of dependency, it was examined by three Judges Bench of the Hon'ble Supreme Court in the case of **Reshma Kumari v. Madan Mohan, (2013) 9 SCC 65**, in which **Smt.Sarla Verma and others v. Delhi Transport Corportaion and another, 2009(3) RCR (Civil) 77**, was considered and it was held that multiplier as given in Smt.Sarla Verma's case (supra) has to be applied. In the said case, Supreme Court applied the multiplier as per age of the deceased. Therefore, the multiplier was correctly applied by the Tribunal. Later in **Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(6) SCC 347**, the Hon'ble Supreme Court has affirmed the same view that multiplier is to be applied with reference to the age of the deceased and not age of dependents of deceased.

It was pleaded by the claimants before the Tribunal that deceased Pawan Kumar was working as Accountant with M/s Ramesh Chand Hans Raj (Commission Agents), Anaj Mandi, Kalayat (Kaithal) and was drawing salary of Rs.15,000/- per month. Ex.P-25 the certificate issued by the employer in this regard was also brought on record, wherein, it was certified that the deceased was working as Accountant with effect from 1.4.2012 till the date of accident i.e. 05.12.2012 with the Firm and his salary was Rs.15,000/- per month. The proprietor of the firm Ramesh Chand appeared before the Tribunal as PW8 and proved the certificate Ex.P-25. In view of this evidence, the finding of the Tribunal holding the monthly income of the deceased at Rs.10,000/- cannot be accepted. It has to be held that the deceased was earning Rs.15,000/- per month.

Accordingly, in view of the law laid down in **National Insurance Company Ltd. Vs. Pranay Sethi and others** **(2017) 16 SCC 680**, the compensation is re-assessed as under:-

Sr.No.	**Heads**	**Calculation (In Rs.)**
(i)	Monthly Income	15,000/-
(ii)	40% of above (i) to be added as future prospects (deceased aged 24 yrs.)	15000+(15000x40/100) = 21,000/-
(iii)	Monthly dependency (½ of (ii) deducted as personal expenses of the deceased – a bachelor)	21000 - 10500 = 10,500/-
(iv)	Loss of dependency after multiplier of 18 is applied	10500 x 12 x 18 = 22,68,000/-
(v)	Funeral Expenses	15,000/-
	Total	***22,83,000/-***

As the difference in the compensation now assessed and that awarded by the Tribunal is only about Rs.2000/-, there is no reason to interfere with the award on the aspect of quantum of compensation.

The appeal as also the cross-objections stand disposed of accordingly.

May 28, 2018, **(HARINDER SINGH SIDHU)**
gian **JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No