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

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FAO 7328 of 2016 (O&M)
Date of decision: 14.09.2018

*New India Assurance Company Limited ........ Appellant*

*Versus*

*Sohan Singh and others .......Respondents*

**Coram: Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr. Vinod Gupta, Advocate
for the appellant

Mr. S S Momi, Advocate
for respondents No. 1 to 3

-.-

**Rekha Mittal, J.** (Oral)

The present appeal directs challenge against the award dated 25.07.2016 passed by the Motor Accidents Claims Tribunal, Kurukshetra, whereby compensation has been awarded on account of death of Gurcharan Singh in a motor vehicular accident that took place on 29.09.2015.

The Tribunal has awarded compensation of Rs.21,71,000.00, detailed hereunder:-

| | |
|---|---|
| Monthly income of the deceased | Rs.10,200.00 |
| Addition in income qua future prospects | 50% |
| Deduction for personal expenses | 1/3rd |
| Multiplier | 15 |
| Loss of dependency | Rs.18,36,000.00 |
| Loss of love and affection | Rs.3,00,000.00 |
| Funeral expenses | Rs.25,000.00 |
| Transportation charges | Rs.10,000.00 |

Counsel for the insurance company would argue that income of the deceased has been assessed on the basis of DC rates which is far more than the minimum wage available at the relevant time. Addition in income for future prospects can, at best, be at the rate of 40%. Compensation allowed under conventional heads should not be more than Rs.70,000.00 in the light of latest judgment of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SC 1270.***

Counsel representing the claimants has supported assessment made by the Tribunal.

The plea of claimants is that the deceased was earning Rs.25,000.00 per month by working as a Mason and dairy farmer. One of the claimants Surender Kaur widow of the deceased appeared in the witness box to substantiate her plea in this regard. Claimants also examined Daler Singh (PW1) to prove avocation and income of the deceased. However, claimants have failed to adduce satisfactory much less cogent evidence with regard to avocation or/and income of the deceased. The Tribunal by taking into consideration DC rates assessed income of the deceased at Rs.10,200.00 per month. DC rates are meant for payment to employees out of contingency fund. For assessment of compensation under the Motor Vehicles Act, 1988, the Court can get assistance from minimum wage fixed by the concerned State Government and available at the relevant time.

Taking a cumulative view of the facts and circumstances of the instant case, it would be in the fitness of things if income of the deceased is assessed at Rs.6,000.00 per month. Addition in income for future prospects would be 40%. Deduction for personal expenses and multiplier adopted by the Tribunal are correct and affirmed. In view of the above, loss of dependency is Rs.10,08,000.00 (Rs.10,80,000.00 i.e. Rs.6,000.00 x 12 x 15 + Rs.4,32,000.00 (40% addition) – Rs.5,04,000.00 (1/3rd deduction)

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitled to

Rs.70,000.00, in the light of judgment of Hon'ble the Supreme Court in *Pranay Sethi's* case (supra), detailed hereunder:-

| | |
|---|---|
| Loss of consortium to widow | Rs.40,000.00 |
| Expenses of funeral and last rites | Rs.15,000.00 |
| Loss of estate | Rs.15,000.00 |

Total compensation is Rs.10,78,000.00. Compensation allowed by the Tribunal is reduced to the extent of Rs.10,93,000.00 (Rs.21,71,000.00 – Rs.10,78,000.00). The insurance company shall be at liberty to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

14.09.2018
mohan bimbra

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