IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 2705 of 2017
Date of Decision : 18.12.2018

United India Insurance Co. Ltd. ....Appellant

Versus

Suman Rani and others ....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr.Ram Avtar, Advocate
for the appellant.

Mr. Akshay Jindal, Advocate
for the respondent-caveator.

Mr. Ram Kumar Chauhan, Advocate
for respondents no. 6 and 7.

Surinder Gupta, J. (Oral)

Appellant-Insurance Company has filed this appeal against award dated 01.12.2016 passed by Motor Accident Claims Tribunal, Hoshiarpur (later referred to as ‘the Tribunal’) awarding compensation of ₹23,93,500/- to claimants-respondents no. 1 to 5 for death of Harpinder Kumar Sharma @ Happy (later referred to as ‘the deceased’), in a motor vehicle accident with car bearing registration no. PB-07-AN-3911 (later referred to as ‘the offending vehicle’).

2. Learned counsel for the parties are *ad idem* that compensation awarded by the Tribunal be recalculated as per law settled by Hon’ble Apex Court in case of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009***.

3. The Tribunal has calculated the compensation awarded to claimants-respondents no. 1 to 5 as follows:-

(i)	Income/Salary	₹9000 per month
(ii)	50% of (i) above to be added as future prospects	(₹9000+ ₹4500) = ₹13500 per month
(iii)	1/4th of (ii) deducted as personal and living expenses	(₹13500-3375) = ₹10125 per month
(iv)	Compensation after applying multiplier of 17	(₹15000x12x17)= ₹2065500
(v)	Loss of consortium for claimant no. 1	₹100000
(vi)	Loss of love and affection for children i.e. claimants no. 2 and 3	₹100000
(vii)	Loss of love and affection for children i.e. claimants no. 4 and 5	₹100000
(viii)	Funeral expenses	₹25000
(ix)	Costs assessed	₹3000
Total Compensation		**₹2393500**

4. Learned counsel for the appellant has argued that the Tribunal has taken monthly income of the deceased as ₹9000/- while it was not proved on record that he was carrying on business in the name of Vishwakarma Tyres House and was also earning as driver. Income of the deceased could be taken as per minimum wages fixed by the State Government.

5. The Tribunal has equated income of the deceased with labourer. It is not required that every person, whose income is not proved, is to be provided compensation as per minimum wages fixed by the State Government. The witnesses have deposed about income of the deceased but could not produce any documentary evidence in this regard, as such, income of the deceased taken as labourer, earning ₹300/- per day in the year 2016, by the Tribunal is not on higher side.

6. As per law settled by Hon'ble Apex Court in case of ***Pranay Sethi (supra)***, 40% addition in income of the deceased is to be made

towards future prospects and under the conventional heads, claimants are entitled to compensation of ₹70,000/-.

7. Keeping in view above facts, the compensation awardable to claimants-respondents no. 1 to 5 is recalculated as follows:-

Sr. No.	***Heads***	***Calculation***
(i)	Monthly income of the deceased as assessed by the Tribunal	₹9000 per month
(ii)	40% of (i) above added towards future prospects	(₹9000 + ₹3600)= ₹12600 per month
(iii)	1/4th of (ii) above deducted towards personal expenses	(₹12600 - ₹3150) = ₹9450 per month
(iv)	Compensation calculated after applying the multiplier of 17	(₹9450X12X17) = ₹1927800
(v)	Compensation for loss of estate	₹15000
(vi)	Compensation for funeral expenses	₹15000
(vii)	Compensation for loss of consortium	₹40000
Total		**₹1997800**

8. As a sequel of my above discussion, this appeal has merit and the same is allowed. The compensation allowed to claimants-respondents no. 1 to 5 is reduced from **₹23,93,500/-** to **₹19,97,800/-**. The appellant-Insurance Company is held entitled to recover the excess amount of compensation from the claimants-respondents no. 1 to 3, if already paid.

December 18, 2018 **(SURINDER GUPTA)**
jk **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No