IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 3827 of 2017 (O&M)
Date of decision: 08.03.2018

The New India Assurance Co Limited .... Appellant

Versus

Santosh Rani and others ....Respondents

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

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Present: Mr. Lalit Garg, Advocate
for the appellant

Ms Gurvir K Gill, Advocate
for respondents No. 1 to 4

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Rekha Mittal, J. (Oral)

The present appeal directs challenge against award dated 10.03.2017 passed by the Motor Accidents Claims Tribunal, Fazilka (hereinafter to be referred as 'the Tribunal') whereby compensation has been awarded on account of death of Santokh Singh in a motor vehicular accident that took place on 09.09.2014.

The Tribunal has awarded compensation of Rs.15,35,400.00, detailed hereunder:-

Monthly income of the deceased	Rs.8,000.00
Addition in income for future prospects	30%
Deduction for personal expenses	1/4th
Multiplier	14
Loss of dependency	Rs.13,10,400.00
Loss of consortium	Rs.1,00,000.00
Loss of care	Rs.1,00,000.00
Funeral expenses	Rs.25,000.00

Counsel for the appellant would urge that as the deceased was 40 years old, addition in income for future prospects would be 25% and compensation awarded under conventional heads needs to be restricted to Rs.70,000.00, in the light of judgment ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SC 1270***. Another submission made by counsel is that the Tribunal has allowed penal interest at the rate of 9% per annum in case payment is not made within three months from the date of award and the same is liable to be set aside.

Counsel representing the claimants, on the other hand, would urge that as deceased is recorded to be 40 years old in the post mortem report, admissible multiplier would be 15. It is further argued that even if clause with regard to penal interest at the rate of 9%per annum is set aside, adequate interest may be awarded on the amount payable to the claimants.

Perusal of the award would reveal that there is no clear evidence qua age of the deceased at the time of occurrence. However, in the post mortem report, he is recorded to be 40 years. Under the circumstances, claimants shall be entitled to loss of dependency by applying multiplier of 15 in the light of judgment of Hon'ble the Supreme Court ***Sarla Verma and others v. Delhi Transport Corporation and another 2009(3) R.C.R. (Civil) 77.***

As the deceased was not below 40 years of age, addition in income for future prospects at the rate of 25% is allowed in the light of judgment in Pranay Sethi's case (supra).

In view of the above, loss of dependency comes to Rs.13,50,000.00, detailed here under:-

Monthly income of the deceased	Rs.8,000.00

Addition in income for future prospects at the rate of 25%	Rs.8,000.00 + Rs.2,000.00=Rs.10,000.00
Deduction for personal expenses 1/4th	Rs.10,000.00 – Rs.2,500.00=Rs.7,500.00
Loss of dependency (7500x12x15)	Rs.13,50,000.00

Under conventional heads, 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.14,20,000.00 (Rs.13,50,000.00 + Rs.70,000.00) and compensation awarded by the Tribunal is reduced to the extent of Rs.1,15,400.00 (Rs.15,35,400.00 – Rs.14,20,000.00.

So far as plea with regard to payment of interest at the rate of 9%, contention raised by the insurance company is meritorious in the light of judgment of Hon'ble the Supreme Court ***National Insurance Company Limited vs. Keshav Bahadur, 2004 ACJ 648.*** However, claimants shall be entitled to interest at the rate of 7.5% per annum from the date of petition till realization on the amount allowed by this Court.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

08.03.2018.
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No