

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1574 of 2018 (O&M)

Date of decision:17.12.2018.

TATA AIG General Insurance Company Ltd.

...Appellant

Versus

Miss Dimple and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sachin Ohri, Advocate for the appellant.

LISA GILL, J.

This appeal has been filed by the Insurance Company challenging award dated 08.11.2017 passed by learned Motor Accident Claims Tribunal, Sonipat ('Tribunal' for short) claiming compensation awarded to the claimants to be excessive.

The claimants, who are the children and husband of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Suman due to injuries received by her in a motor vehicle accident which took place on 11.02.2017. FIR No.55 dated 11.02.2017 was registered under Sections 279, 304-A and 337 IPC at Police Station Ganaur, Sonapat against respondent No.1. It was pleaded that the deceased was assisting her husband in running a milk dairy, earning Rs.20,000/- per month, besides rendering services to the family as a wife, mother etc. Compensation was thus prayed for.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of the offending vehicle by its driver. There is no dispute regarding the above said finding of the learned Tribunal on this issue, which has attained finality.

The claimants were held entitled to a total compensation of Rs.16,90,000/- along with interest @ 7.5% per annum from the date of filing of claim petition till realisation.

Sole ground raised by learned counsel for the appellant is that notional income of the deceased Suman has been wrongly assessed as Rs.9000/- per month. It is submitted that she was merely a house wife. Minimum wage of an unskilled worker in the State of Haryana at the time of her death i.e. on 11.02.2017 was about Rs.8000/- per month. Thus, her notional income should be held to be much less. Therefore, this appeal, it is submitted be allowed and compensation awarded by the learned Tribunal be reduced.

I have heard learned counsel for the appellant and have gone through the file.

In the present case, claim petition filed under Section 166 of the Motor Vehicles Act, 1988 was filed by the respondents/claimants seeking compensation on account of death of Suman in a motor vehicle accident which took place on 11.02.2017 due to the rash and negligent driving of car bearing registration No.DL-8CP-8999 by its driver Pavan Girfwni. Learned Tribunal concluded the deceased to be 37 years old at the time of her death and assessed her notional income as Rs.9000/- per month being house wife. No deduction was effected towards personal expenses. Multiplier of 15 was applied. Thus, total dependency was assessed at Rs.16,20,000/- (9000x12x15).

A sum of Rs.40,000/- was awarded towards loss of consortium besides

Rs.15,000/- each towards loss of estate and funeral expenses. Learned Tribunal awarded a sum of Rs.16,90,000/- as compensation to the claimants, details of which are as hereunder: -

“Loss of dependency	Rs.16,20,000/-
Loss of consortium to claimant No.5	Rs.40,000/-
Loss of estate	Rs.15,000/-
Funeral expenses	Rs.15,000/-
Total	<u>Rs.16,90,000/-</u>

No challenge has been raised by the appellant qua the finding of the Tribunal regarding the rash and negligent driving of the offending vehicle by its driver Pavan Girfwani. Liability of the Insurance Company is also not disputed. Sole argument raised by learned counsel for the appellant that notional income of the deceased has been wrongly assessed, is devoid of any merit. It is a settled principle of law that income of a house wife cannot be equated to that of a skilled worker keeping in view a housewife's multifarious role as a home manager. This Court in United India Insurance Company Ltd. Vs. Sube Singh and others, FAO No.218 of 2014, decided on 15.01.2014, assessed notional income of a house wife as Rs.9000/- in relation to an accident which took place on 23.11.2012. In the present case, the accident in question took place on 11.02.2017. Thus, there is no ground for reduction of the notional income of the deceased as assessed by the learned Tribunal. In view of the Division Bench judgment of this Court in Paramjit Singh and another v. Dilbagh Singh @ Bagga and others, 2014(4) RCR (Civil) 895, no deduction on account of personal expenses is to be effected while calculating the dependency.

Learned counsel for the appellant is unable to point out any illegality, infirmity or perversity in award dated 08.11.2017, which warrants any interference by this Court. Keeping in view the facts and circumstances as

narrated above, I do not find any ground whatsoever to interfere in the impugned award dated 08.11.2017 in this appeal preferred by the Insurance Company.

No other argument has been raised.

There is a delay of 19 days in filing of this appeal. Keeping in view the fact that the matter has been adjudicated on merits, question of delay in filing this appeal has been rendered academic. Said application is accordingly disposed of.

The appeal is accordingly dismissed.

(LISA GILL)
JUDGE

17.12.2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No