IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1678 of 2018 (O&M)
Date of decision : September 14, 2018

Reliance General Insurance Co. Ltd
...... Appellant

v.

Jai Parkash and others
...... Respondents

***

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

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Present : Mr. Sanjeev Kodan, Advocate
for the appellant.

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Ajay Tewari, J (Oral)

This appeal has been filed against the Award of the MACT, Narnaul awarding a sum of ₹44,15,340/- for the death of Sonu.

On 11.7.2018, the following order was passed :-

> " The only issue which survives in this case is whether income tax has been rightly deducted from the income.
>
> The tribunal took the income as per the salary certificate at Rs.28,495/- per month and deducted a sum of Rs.1,425/- per month as income tax whereas as per the income tax slabs which have been given by the appellant itself about Rs.750/- per month had to be deducted as income tax. The argument raised by the learned counsel is that income tax should have been deducted after adding the future prospects and seeks a short adjournment to make good this argument.
>
> Adjourned to 16.07.2018."

Counsel for the appellant has placed reliance on a decision of the Supreme Court in Shyamwati Sharma & others v. Karam Singh & others, 2010(3) RCR (Civil) 741 and particularly para 7 thereof, a relevant part of which is quoted herein below :-

> "7. As noticed above, the gross salary was Rs.13,794/- per month or Rs.1,65,528/- per annum. By adding 50% towards future prospects (as the deceased was less than 40 years of age), the deemed gross income would have been Rs.20,691/- per month or Rs.2,48,292/- per annum. The percentage of deduction towards income-tax and surcharge, taken as 30% by the High Court, does not require to be disturbed, having regard to the income. On such deduction, the net annual income of the deceased would have been Rs.1,73,800/-......"

A perusal of the above would show that no reasons were given by their Lordships. However, their Lordships relied upon the previous judgment of the Supreme Court in Sarla Verma & others v. Delhi Transport Corporation & another, 2009(3) RCR (Civil) 77 where the same Hon'ble Judge held that generally the actual income of the deceased less income tax should be the starting point for calculating the compensation. In para 11, their Lordship further holds as follows :-

> ".... Where the annual income is in the taxable range, the words `actual salary' should be read as `actual salary less tax'."

Moreover, in Paramjit Singh and another vs. Dilbagh Singh @ Bagga and others, 2013(4) RCR (Civil) 895, a Division Bench of this Court had held that there can be no deduction on notional income for the simple reason that that is notional and not real. Keeping in view both the judgments, I hold that in the present case, the question posed on the last date would have to be answered in terms of the decision in Sarla Verma & others' case (supra). Looked at from that angle, there is no scope for any interference. Consequently, this appeal is dismissed.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

(AJAY TEWARI)
JUDGE

September 14, 2018
`kk'

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No