IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 23.04.2018

1. FAO No.5036 of 2017(O&M)

IFFCO TOKIO General Insurance Company ... Appellant

Versus

Neelam & ors. ... Respondents

2. FAO No.4934 of 2017(O&M)

Neelam & ors. ... Appellants

Versus

Rajpal & ors. ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Yogesh Gupta, Advocate,
for the appellant in FAO No.5036 of 2017 and
for respondents No.3-Insurance Company
in FAO No.4934 of 2017.

Mr. Jarnail S. Saneta, Advocate,
for the appellants in FAO No.4934 of 2017 and
for respondents No.1 to 5 in FAO No.5036 of 2017.

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RAMENDRA JAIN, J.(Oral)

CM-15334-CII-2017 in
FAO No.5036 of 2017

For the reasons mentioned in the application, which is supported by an affidavit, the same is allowed. Delay of 68 days in filing the appeal is condoned.

CM-14955-CII-2017 in
FAO No.4934 of 2017

For the reasons mentioned in the application, which is supported by an affidavit, the same are allowed. Delay of 14 days in filing the appeal is condoned.

Main appeals

Above titled two appeals are being disposed of by this common judgment i.e. one filed by the claimants for enhancement of compensation and other by Insurance company for reduction of the same.

Both the parties are *ad idem* that these appeals have to be decided in accordance with latest judgment of the Hon'ble Supreme Court in National Insurance Company Ltd. Vs. Pranay Sethi & ors., 2017(4) RCR (Civil) 1009.

In nutshell, on 18.01.2016, one Jitender, son of late Kanwar Bhan died in a motor vehicular accident. His legal heirs filed claim petition under Section 166 and 140 of the Motor Vehicles Act, 1988 (for short 'the Act') for grant of compensation to them against his death.

After holding trial, the Motor Accident claims Tribunal, Panipat (in short 'the Tribunal') granted a sum of ₹13,97,000/- to the claimants along with interest @ 7.5 % per annum from the date of filing of the claim petition till realization vide impugned award dated 01.02.2017.

Learned counsel for the appellant-Insurance Company *inter alia* contends that in view of the *Pranay Sethi's case (supra)*, multiplier of 16 ought to have been applied by learned Tribunal instead of 17. Besides it, learned Tribunal has erred in adding 50% to the monthly income of the deceased towards future prospects, though the same ought to have been added according to 40%.

On the other other hand, learned counsel for the claimants refuting the above submissions of learned counsel for the appellant-Insurance Company contended that the income of the deceased as a casual labourer has wrongly been taken at ₹6,000/- per month, despite the fact that as per Haryana Government, minimum wages at the relevant time were ₹7,600/- per month. Learned Tribunal has awarded ₹20,000/- under the heads of conventional head of consortium, loss of estate and funeral expenses. The same had to be awarded at ₹70,000/-.

Having given anxious consideration to the submission made by both the sides and considering the dictum of the Hon'ble Supreme Court in *Pranay Sethi's case(supra)*, the income of the deceased has to be taken as ₹7,600/- per month, which were at the relevant time according to Haryana Government circular. That apart, learned Tribunal has wrongly awarded ₹20,000/- under conventional heads aforesaid, which are liable to be increased to ₹70,000/- and ordered so. However, there is substance in the submission of learned counsel for the appellant-Insurance Company that multiplier of 16 ought to have been applied instead of 17 for assessing just and fair compensation to the alleged income of the deceased and should have further added 40% towards future prospects.

Thus, while assessing the income of the deceased at ₹7,600/- per month and adding 40% therein, it comes to ₹3,040/-. Therefore, the total income, including future prospects comes to ₹7,600/-+₹3040/-=₹10,640/- and multiplying it by 12, annual income of the deceased comes to ₹12,7680/- (₹10,640/-X12). While deducting 1/4th towards his personal expenses, the remaining income of the deceased for his family members comes to ₹7,980/-. Applying multiplier of 16, it comes to ₹15,32,160/- (₹7980x12x16). While adding ₹70,000/- under conventional heads, the total amount payable to respondents No.1 to 5-claimant comes to ₹15,32,610/-+₹70,000/-

=₹16,02,160/-. The enhanced compensation payable to the respondents No.1 to 5-claimant comes to ₹2,05,160/-(₹16,02,160/- minus ₹13,97,00/- =₹2,05,160/-) over and above the compensation already awarded by the learned Tribunal at ₹13,97,000/- along with interest @7.5% per annum from the date of filing of claim petition till realization. Ordered accordingly.

The appellant-Insurance Company is directed to deposit the aforesaid enhanced compensation before the learned Tribunal within two months from today along with interest @ 7.5% per annum from the date of institution of the claim petition till realization for onward disbursement to respondents No.1 to 5-claimants in proportion so arrived at by it, in accordance with law against proper receipt and identification.

With the above observation, both the appeals stand disposed of.

23.04.2018 **(RAMENDRA JAIN)**
monika **JUDGE**

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*