In the High Court of Punjab and Haryana at Chandigarh

FAO No. 244 of 2018(O&M)
Date of Decision: 17.1.2018

IFFCO TOKIO General Insurance Company Limited

---Appellant

versus

Renu Bala and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Sanjeev Kodan, Advocate
for the appellant

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<u>Rekha Mittal, J.</u>

<u>CM No. 731-CII of 2018</u>

Prayer in this application is for condoning delay of 41 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Arun Mehrotra, Vice President Authorized Signatory of IFFCO TOKIO General Insurance Company Limited, application is allowed and delay of 41 days in filing the appeal stands condoned.

Disposed of accordingly.

<u>FAO No. 244 of 2018</u>

The present appeal directs challenge against award dated 28.8.2017 passed by the Motor Accidents Claims Tribunal, Karnal (in short “the Tribunal”) whereby compensation has been assessed on account of death of Sandeep @ Sanjeev in a motor vehicular accident that took place on 29.9.2015.

The Tribunal has assessed compensation to the tune of Rs.25,85,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 12,000/-
Increase in income qua future prospects	50%
Deduction for personal expenses	1/3rd
Multiplier	15
Loss of consortium	Rs. 1,00,000/-
Expenses on funeral and last rites	Rs. 25,000/-
Loss of love and affection to children of the deceased	Rs. 3,00,000/-

Counsel for the appellant-insurance company has fairly informed that the appeal has been preferred to assail quantum of compensation assessed by the Tribunal. It is argued that income of the deceased assessed by the Tribunal is on higher side and needs reduction. The Tribunal has allowed benefit of increase in income for future prospects @ 50% as against 40% permissible in the light of latest judgment of Hon'ble the Supreme Court of India **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270**. Compensation awarded under conventional heads needs modification in the light of aforesaid judgment.

The plea of the claimants is that the deceased was having a harvester combine which he was using for harvesting crops of people in Haryana, Rajasthan, Madhya Pradesh, Maharashtra etc. He was cultivating his own land measuring 5 acres and also running a dairy. The claimants placed on record copy of jamabandi for the year 2010-11 (Ex. P-5) with regard to the deceased owning 5 acres of land. Version of the claimant with regard to deceased running a dairy was corroborated by Sube Singh PW3 and documentary evidence produced on record. No doubt, land owned by the deceased would be available for family of the victim but there would be loss of managing capacity to look after his land particularly in the circumstances that the deceased has left behind a young widow and two minor children aged 8 and 10 years. The minimum wage at the relevant time was more than Rs. 7000/- per month. Under the circumstances, contention raised by counsel to assail income of the deceased assessed by the Tribunal is not meritorious and ordered to be rejected.

The deceased was 37 years old. There is no challenge to findings of the Tribunal qua applying multiplier of 15 and deduction to the extent of 1/3rd for personal expenses which are otherwise in conusance with judgment of Hon'ble the Supreme Court of India **Smt.Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298.** However, claimants shall be entitled to increase in income for future prospects @ 40% in the light of **Pranay Sethi and others' case (supra).** In this manner, loss of dependency comes to Rs. 12000 x 12 x 15 =21,60,000 + 8,64,000(40%)=30,24,000 – 10,08,000(1/3rd)=**Rs.20,16,000/-.**

Under conventional heads, claimants shall be entitled to following compensation:-

Loss of consortium to widow	**Rs. 40,000/-**
Expenses on funeral	**Rs. 15,000/-**
Loss of estate	**Rs. 15,000/-**

The total compensation comes to **Rs.20,86,000/-** and compensation awarded by the Tribunal is reduced to the extent of **Rs.**

4,99,000/-(25,85,000 – 20,86,000).

The appeal filed by the insurance company is partly allowed in the aforesaid terms.

Before parting with the order, it is clarified that the appeal has been disposed of without notice to the respondents in order to avoid inconvenience and incurring expenditure by them. However, if the respondents have any grievance to express, they shall be at liberty to file appropriate application before this Court. It is further clarified that any observations made hereinbefore shall not cause prejudice to the claimants if they prefer to file appeal for enhancement.

(Rekha Mittal)
Judge

17.1.2018
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No