In the High Court of Punjab and Haryana at Chandigarh

FAO- 303 of 2018(o&m)
Date of Decision: 19.1.2018

United India Insurance Company Limited

---Appellant

versus

Smt. Ram Vati and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. D.P.Gupta, Advocate
for the appellant

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Rekha Mittal, J.

The present appeal directs challenge against award dated 1.9.2017 passed by the Motor Accidents Claims Tribunal, Panchkula (in short "the Tribunal") whereby compensation has been awarded in regard to death of Mahesh Kumar in a motor vehicular accident that took place on 2.8.2016.

The Tribunal has awarded compensation to the tune of Rs. 20,78,880/-, detailed hereunder:-

Monthly income of the deceased	Rs. 10,900/-
Multiplier	17
Deduction for personal expenses	$1/5^{th}$
Loss of dependency	8720x12x17=Rs.17,78,880/-
Expenses on last rites and transportation	Rs.25,000/-
Loss of love and affection	Rs. 1,75,000/-
Loss of consortium	Rs. 1,00,000/-

Counsel for the appellant-insurance company would inform that appeal has been preferred to challenge quantum of compensation assessed by the Tribunal. It is argued that the Tribunal has assessed income of the deceased at Rs. 10,900/- per month on the basis of Deputy Commissioner's rates as against minimum wage of Rs. 8070/- per month fixed by the State of Haryana. Compensation awarded under conventional heads needs to be restricted to Rs. 70,000/- in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270**.

The Tribunal has accepted plea of the claimants that the deceased was doing the work of sale of *Kulcha Chhola*. It is not expected from the claimants to lead clear much less cogent evidence with regard to income in such like business run by the deceased. However, taking into consideration that the deceased was *Kulcha Chhola* vendor coupled with the minimum wage of a semi-skilled worker at the relevant time, income of the deceased is assessed at Rs. 8800/- per month as against Rs. 10,900/- per month assessed by the Tribunal on the basis of Deputy Commissioner's rates. Deputy commissioner's rates are available when a person is actually employed on daily wage basis in a government department. The deduction for personal expenses and multiplier adopted by the Tribunal are affirmed. However, claimants shall be entitled to increase in income for future prospects @ 40%. In this manner, loss of dependency comes to Rs. 8800 x 12 x 17= 17,95,200 + 7,18,080 (40%)= Rs.25,13,280 – 5,02,656 ($1/5^{th}$)= 20,10,624/-

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.20,80,624/- and the additional amount is Rs.1744/-(20,80,624-20,78,880), payable with interest @ 7.5% per annum from the date of petition till realization, to be paid to widow of the deceased.

The appeal is disposed of accordingly.

Before parting with this order, it is pertinent to mention that though the claimants have been awarded additional amount of Rs. 1744/- along with interest but income of the deceased has been reduced without notice to them. The claimants would be at liberty to file an application before this Court if they have any grievance to express. It is further clarified that any observations made hereinbefore shall not cause prejudice to the claimants if they prefer an appeal for enhancement.

As the appeal has been decided on merits, application for condonation of delay is of academic relevance only.

(Rekha Mittal)
Judge

19.1.2018
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No