In the High Court of Punjab and Haryana at Chandigarh

FAO No. 308 of 2018(O&M)
Date of Decision:19.1.2018

The New India Assurance Company Limited

---Appellant

vs.

Suman and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

***

Present: Ms. Vandana Malhotra, Advocate
for the appellant

***

Rekha Mittal, J.

The insurance company is in appeal against award dated 7.9.2017 passed by the Motor Accidents Claims Tribunal, Hisar (in short "the Tribunal") whereby compensation has been awarded on account of death of Pawan aged 34 years.

Counsel for the appellant has assailed quantum of compensation primarily on two counts. The first submission made by counsel is that though the Tribunal has assessed income of the deceased on the basis of minimum wage payable to a labourer but has wrongly assessed his income at Rs. 8000/- per month as against minimum wage of Rs.6160/- at the relevant time. Compensation allowed under conventional heads needs to be restricted to Rs. 70,000/- as against Rs. 2,00,000/- allowed by the

Tribunal, 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.**

The Tribunal, in para 14 of the award, has noticed that the deceased was a driver by profession and he passed away while driving TATA Ace involved in the occurrence. In absence of clear evidence on record qua income of the deceased, the Tribunal was required to seek support from minimum wage of a skilled labour. Taking into consideration notification issued by the State of Haryana with regard to minimum wage of a skilled labour at the relevant time, income of the deceased is assessed at Rs. 6200/- per month. However, the claimants shall be entitled to increase in income for future prospects @ 40% in the light of **Pranay Sethi and others's case (supra).** Deduction for personal expenses and multiplier applied by the Tribunal are affirmed. In view of the above, loss of dependency comes to Rs. 6200 x 12 x16= 11,90,400 +4,76,160=16,66,560 -4,16,640= Rs.12,49,920/-.

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.13,19,920/-. As difference between compensation assessed by this court and compensation assessed by the Tribunal is approximately Rs. 30,000/-, in the interest of justice award passed by the Tribunal is kept intact.

Counsel for the appellant has also made a vain attempt to argue that as driver of offending vehicle was possessing two driving licences, it amounts to violation of provisions of Section 6 of the Motor Vehicles Act, 1988. Possessing of two driving licences by a driver may invite penal consequences in view of provisions of the Act but that does not constitute a valid defence in favour of the insurance company.

No other point has been raised.

For the foregoing reasons, the appeal stands disposed of.

Before parting with this order, it is pertinent to mention that income of the deceased has been reduced without notice to the claimants. 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 file an appeal for enhancement.

(Rekha Mittal)
Judge

19.1.2018
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No