In the High Court of Punjab and Haryana at Chandigarh

FAO- 7629 of 2017(O&M)
Date of Decision: 8.2.2018

IIFO TOKIO General Insurance Company Limited

---Appellant

versus

Kamla and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Sanjeev Kodan, Advocate
for the appellant

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Rekha Mittal, J.

The present appeal directs challenge against award dated 3.7.2017 passed by the Motor Accidents Claims Tribunal, Karnal (in short "the Tribunal") whereby compensation has been allowed in regard to death of Sher Singh @ Shera Ram in a motor vehicular accident that took place on 17.6.2015.

The Tribunal has awarded compensation to the tune of Rs. 4,61,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 6000/-
Deduction for personal expenses	$1/3^{rd}$
Multiplier	7
Loss of dependency	4000x12x7-Rs. 3,36,000/-
Loss of consortium, love and affection, funeral expenses and loss of estate	Rs. 1,25,000/-

Counsel for the appellant has submitted that compensation awarded by the Tribunal is on higher side and liable to be reduced. To bring home his contention, it is argued that claimant is the widow of deceased, therefore, deduction for personal expenses should be 50% in place of 1/3rd. 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**.

Counsel has also made a vain attempt to argue that the insured obtained insurance policy covering the period of accident by concealing material facts as the policy was issued on 18.6.2015 covering the period from 16.6.2015 to 15.6.2016 and the accident in question took place on 17.6.2015, therefore, insurance company is not liable to pay compensation.

The plea of the appellant raising a question mark with regard to deduction for personal expenses is misconceived and liable to be rejected. As per the landmark judgment of Hon'ble the Supreme Court **Smt.Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298**, deduction for personal expenses to the extent of 50% is permissible only in the case of death of an unmarried person and claimants being his parents. Contention raised by counsel for the appellant is not tenable in the light of judgment of this Court **Pawan Kumar and others vs. Romesh Kumar and others 2016 (1) Law Herald 758** and Division Bench judgment of Madhya Pradesh High Court **Anurag Jain and another v s. Ramveer Singh and others 2007(4) TAC 279**.

The Tribunal has awarded an amount of Rs. 1.25 lakhs under conventional heads. In the light of judgment in **Pranay Sethi and others'**

case (supra), claimants shall be entitled to Rs. 70,000/- under conventional heads, detailed hereunder:-

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

So far as plea of the insurer with regard to obtaining of policy by concealment of material facts, no evidence was adduced by the insurer as to the date on which the cover note was issued, premium was paid when otherwise the policy in question was never cancelled by the insurance company. Under the circumstances, insurance company cannot escape its liability to pay compensation.

No other point has been raised.

For the foregoing reasons, compensation awarded by the Tribunal is reduced to the extent of Rs. 55000/-.

The appeal is partly allowed in the aforesaid terms.

Before parting with this order, it is pertinent to mention that compensation 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

8.2.2018
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No