IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-7777-2017 (O&M)
Date of decision: 30.01.2018

IFFCO TOKIO GENERAL INSURANCE CO LTD ...Appellant

Versus

MANJU AND ORS ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ajay Singla, Advocate
for the appellant.

****

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 26.07.2017 passed by the Motor Accidents Claims Tribunal, Karnal whereby compensation has been awarded on account of death of Monu in a motor vehicular accident that took place on 03.02.2016.

The Tribunal has awarded compensation to the tune of Rs.28,05,073/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.10,520/-
2. Addition in income for future prospects	50%
3. Multiplier	18
4. Deduction for personal expenses	1/4th
5. Loss of dependency	Rs.25,56,360/-
6. Expenses on funeral	Rs.25,000/-
7. Loss of estate	Rs.50,000/-
8. Loss of consortium	Rs.1,00,000/-

Counsel for the appellant-insurance company has submitted that in view of the latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270** addition in income for future prospects, at best, can be @ 40%. Compensation awarded under conventional heads needs to be restricted to Rs.70,000/- in the light of aforesaid judgment. The Tribunal has wrongly applied deduction for personal expenses @ 1/4th in place of 1/3rd as minor brother of the deceased cannot be held dependent upon his earning during lifetime of his father aged about 52 years.

Respondents/claimants failed to cause appearance to contest the appeal.

Contention raised by counsel for the appellant with regard to future prospects @ 40% and conventional heads to be restricted to Rs.70,000/- is meritorious in the light of enunciation laid down in **Pranay Sethi's case** (supra). The plea of the appellant that deduction for personal expenses should be 1/3rd in place of 1/4th is also meritorious as minor brother of the deceased cannot be held to be dependent upon his earning unless there is something on record to establish that father of the deceased is suffering from some disability to earn livelihood for his family. After applying addition qua future prospects @ 40% and deduction for personal expenses @ 1/3rd, loss of dependency comes to Rs.21,20,832/- (Rs.10,520 x 12 x 18) + (40% future prospects) – (1/3rd deduction for personal expenses).

Under conventional heads, claimants shall be entitled to

Rs.70,000/-, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

The total compensation comes to Rs.21,90,832/- and the compensation awarded by the Tribunal is reduced to the extent of Rs.6,14,241/- (28,05,073 – 21,90,832).

The appeal is partly allowed in the aforesaid terms.

30.01.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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