

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 8492 of 2017(O&M)
Date of Decision: 29.10.2018

Oriental Insurance Company

---Appellant

versus

Smt. Ragini Devi and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Varun Sharma, Advocate
for Mr. Satpal Dhamija, Advocate
for the appellant

Rekha Mittal, J.

Mr. N.S.Dandiwal, Advocate, has caused appearance on behalf of respondent No. 4.

The present appeal directs challenge against award dated 12.7.2017 passed by the Motor Accidents Claims Tribunal, Jalandhar (in short “the Tribunal”) whereby compensation has been assessed on account of death of Dashrath Prasad in a motor vehicular accident that took place on 1.2.2016.

The Tribunal has awarded compensation of Rs. 10,57,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 8,000/-
Deduction for personal expenses	1/3 rd
Multiplier	13
Loss of dependency	Rs. 8,32,000/-
Loss of consortium to widow	Rs. 1,00,000/-
Loss of love and affection to claimant No. 2	Rs. 1,00,000/-
Funeral expenses	Rs. 25,000/-

Counsel for the appellant-insurance company would inform that the appeal has been preferred primarily to challenge quantum of compensation assessed by the Tribunal and findings qua driving licence under issue No. 4.

With regard to quantum of compensation, it is argued that the Tribunal has awarded a sum of Rs. 2,25,000/- under conventional heads. In the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others** 2017 SCC 1270, compensation under conventional heads needs to be restricted to Rs. 70,000/-. He has challenged findings qua driving licence possessed by Nirmal Singh @ Bittu, driver of offending vehicle bearing No. PB-10-CW-1127 by referring to testimony of Hariwansh RW1.

Counsel representing respondent No. 4 has supported findings of the Tribunal on issue No. 2 with the submission that licence in question was originally issued in the year 2003 by DTO, Ferozepur and later it was renewed from time to time and there was valid endorsement in force at the time of accident authorizing Nirmal Singh to drive heavy transport vehicle

Respondents No. 1 and 2 did not cause appearance despite service.

I have heard counsel for the parties and perused the paper book particularly the award.

The claimants shall be entitle to addition in income for future prospects @ 25%. Findings of the Tribunal with regard to income of the deceased, deduction for personal expenses and multiplier are affirmed. In this manner, loss of dependency is calculated at Rs. 10,40,000/- [8000 x 12

$x13=12,48,000 + 3,12,000(25\%)=15,60,000-5,20,000(1/3^{\text{rd}})]$.

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs. 1,10,000/-, detailed hereunder:-

Loss of consortium	Rs. 80,000/- (Rs. 40,000/- each)
Expenses on funeral and last rites	Rs. 15,000/-
Loss of estate	Rs. 15,000/-

Total compensation is Rs. 11,50,000/- and the additional amount is Rs.93,000/- (11,50,000-10,57,000), payable with interest @ 7.5% per annum from the date of petition till realization.

The plea raised by the insurance company with regard to driving licence possessed by Nirmal Singh @ Bittu is misconceived and has rightly been rejected by the Tribunal, on a detailed consideration of testimony of Hariwansh RW1.

No other point has been raised.

For the foregoing reasons, the appeal stands disposed of. A copy of the judgment be sent to the claimants in order to enable them to recover additional amount. It is clarified that nothing stated hereinbefore shall cause prejudice to the claimants in case they file an appeal for enhancement of compensation.

(Rekha Mittal)
Judge

29.10.2018

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No