In the High Court of Punjab and Haryana at Chandigarh

FAO-928 of 2018(O&M)
Date of Decision: 16.2.2018

The New India Assurance Company Limited

---Appellant

versus

Pooja and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Suvir Dewan, Advocate
for the appellant

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Rekha Mittal, J.

CM No.3200-CII of 2018

Prayer in this application is for condoning delay of 25 days in filing the appeal.

Heard.

Allowed as prayed for. Delay of 25 days in filing the appeal stands condoned.

Disposed of accordingly.

FAO- 928 of 2018

The present appeal directs challenge against award dated 22.9.2017 passed by the Motor Accidents Claims Tribunal, SAS Nagar Mohali (in short “the Tribunal”) whereby compensation has been assessed on account of death of Anil Kumar in a motor vehicular accident that took place on 26.10.2016.

Counsel for the appellant-insurance company has fairly informed that appeal has been preferred only to assail quantum of compensation assessed by the Tribunal. It is argued that the Tribunal has allowed benefit of increase in income for future prospects @ 50% as against 40% admissible in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270**. Similarly, compensation awarded under conventional heads needs to be restricted to Rs. 70,000/- in the light of aforesaid judgment.

The Tribunal has awarded compensation of Rs. 14,90,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 6000/-
Addition in income for future prospects	50%
Multiplier	15
Deduction for personal expenses	1/4th
Loss of dependency	6750x12x15= Rs. 12,15,000/-
Funeral expenses	Rs.25,000/-
Loss of consortium	Rs. 1,00,000/-
Loss of love and affection	Rs. 1,00,000/-
Loss of estate	Rs. 50,000/-

The contention raised by counsel for the appellant challenging correctness of future prospects and compensation under conventional heads is meritorious when the case is examined in the light of judgment in **Pranay Sethi and others' case (supra).** However, as per the settled position in law, the Tribunal has an onerous obligation to assess just and reasonable compensation to make good the loss as the money can do, in order to compensate family of the deceased.

The occurrence in question took place on 26.10.2016. the Tribunal has assessed income of the deceased by presuming him to be an unskilled person. The deceased left behind family consisting of his widow, two minor sons aged 16 and 15 years and mother. Taking a clue from the minimum wage fixed by the State of Punjab and available at the relevant time, income of the deceased is assessed at Rs. 7500/- per month. After allowing benefit of increase in income for future prospects to the extent of 40% and multiplier and deduction as allowed by the Tribunal, loss of dependency comes to Rs. 7500 x 12 x15=13,50,000 + 5,40,000 (40%) =18,90,000-4,72,500 (1/4th)=Rs.14,17,500/-.

Under conventional heads, compensation awarded by the Tribunal is modified and the claimants shall be entitled to Rs. 70,000/-, detailed hereunder:-

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

Total compensation is Rs. 14,87,500/- and compensation assessed by the Tribunal is Rs. 14,90,000/-. As such, the difference is only of Rs. 2500/-. Accordingly, compensation allowed by the Tribunal is affirmed.

Disposed of accordingly.

Before parting with this order, it is pertinent to mention that as appeal has been disposed of without notice to the claimants but certain modifications have been made, any observations made hereinbefore shall not cause prejudice to the claimants if they file an appeal for enhancement.

A copy of this order be sent to the claimants.

(Rekha Mittal)
Judge

16.2.2018
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No