

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.935 of 2018 (O&M)

Date of Decision: March 14, 2018

Kotak Mahindra General Insurance

...Appellant

Versus

Harender and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Ashwani Talwar, Advocate
for the appellant – insurer.

HARINDER SINGH SIDHU, J.

The insurer has filed the present appeal challenging the award dated 4.12.2017 passed by the Motor Accident Claims Tribunal, Palwal (for short 'the Tribunal').

Brief facts as disclosed in the claim petition are that on 26.12.2016 in the area of Police Station Chandhat a vehicular accident took place involving tractor trolley No.HR-30Q-9001 (herein for short 'the offending vehicle'), wherein, Amarwati alias Amro lost her life. The accident was alleged to have been caused due to rash and negligent driving of the offending vehicle. FIR regarding the accident was also registered.

The Tribunal assessed the income of the deceased at Rs.8100/- per month, added 25% towards future prospects, deducted 1/3rd towards her personal expenses, applied the multiplier of 14 (deceased aged 45 years).

The loss of dependency was assessed at Rs.12,75,792/- (7594x12x14).

Besides, sum of Rs.15,000/-, each, towards 'transportation and funeral

expenses' and 'loss of estate' was awarded. In all, compensation of Rs.13,05,792/- along with interest was awarded.

While challenging the award, Ld. Counsel for the appellant-Insurance Company has argued that after deduction of 1/3rd towards personal expenses of the deceased, the loss of monthly dependency comes to Rs.6750 [10125-(10125x1/3)], but the Tribunal has wrongly taken the monthly loss of dependency at Rs.7594/-, which appears to be an inadvertent mistake in calculation.

Having gone through the award, the submission appears to be correct.

Accordingly, the loss of dependency is re-calculated at Rs. 11,34,000/- (6750x12x14). In other words, the claimants are held entitled to compensation of Rs.11,64,000/- (1134000+15000+15000) along with interest.

The appeal is disposed of accordingly. The Award of the Tribunal is modified to the extent that the claimants-respondents are held entitled to total compensation of Rs.11,64,000/-, that is, Rs.1,41,792/- (1305792-1164000) less than the amount awarded by the Tribunal.

The appeal has been disposed of without notice to the respondents – claimants to avoid unnecessary delay and expenses. A copy of this order be conveyed to the claimants-respondents No. 1 to 3. In the event of the said respondents having any objection, they may file application to that effect. On receipt of any such application, the same be listed for hearing.

It is made clear that this order has been passed on an appeal filed by the Insurance Company without hearing the claimants and is confined to

the contentions raised herein. It is without prejudice to the rights of the claimants to separately agitate for enhancement on any other ground that may be available to them.

March 14, 2018

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No