IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 8142 of 2014 (O&M)
& XOBJC-73-CII-2015
Date of Decision : 15.01.2018

Reliance General Insurance Co. Ltd. .....Appellant

Versus

Krishan and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Shubham Jain, Advocate
for Mr. Suman Jain, Advocate
for the appellant.

Mr. Ram Bilas Gupta, Advocate
for respondents no. 1 to 3-Cross-Objectors.

Surinder Gupta, J.

This is appeal by Reliance General Insurance Co. Ltd. challenging award dated 02.05.2014 passed by Motor Accident Claims Tribunal, Palwal (later referred to as 'the Tribunal') awarding compensation of ₹6,11,000/- to claimants for death of Rohit (later referred to as 'the deceased') son of claimant-respondent no. 1 and brother of claimants-respondents no. 2 and 3, in a motor vehicle accident with Dumper bearing registration no. HR-55P-4672 (later referred to as 'the offending vehicle').

2. Compensation of ₹6,11,000/- awarded by Tribunal was computed as follows:

Sr. No.	***Heads***	***Calculation***
(i)	Name of the deceased	Rohit
(ii)	Age of the deceased	16 years
(iii)	Monthly income of the deceased	₹4500
(iv)	1/3rd of (iii) above deducted towards personal expenses	₹4500- ₹1500) = ₹3000
(v)	Compensation calculated after applying the multiplier of 16	(₹3000X12X16) = ₹576000

(vi)	Funeral expenses	₹10000
(vii)	Loss of estate	₹5000
(viii)	Loss of consortium and loss of love and affection	₹20000
	Total	₹611000

3. Learned counsel for the appellant has challenged the grant of compensation on the ground that income of the deceased as assessed by the Tribunal is on higher side. Claimants are mother and siblings of deceased. Though, mother could be taken as a dependent but siblings were not dependents on the deceased, as such, the Tribunal has wrongly made deduction of 1/3rd towards personal expenses of the deceased instead of ½. The Tribunal has also committed error while allowing interest @ 9% per annum, which is on higher side as prevailing rate of interest is @ 7.5% per annum.

4. Claimants-respondents no. 1 to 3 have also filed cross-objections seeking enhancement of compensation *inter alia* pleading that amount of compensation as ₹6,11,000/- is unjustified and unreasonable. The Tribunal has wrongly assessed income of the deceased as ₹4500/- per month. The deceased was a brilliant student and had scored 89% marks in secondary examinations held in March, 2012. The future prospects have also not been allowed by the Tribunal. Claimants are also entitled to enhancement of compensation on conventional heads. The multiplier applied is 16 while multiplier attracted in this case is 18 as per observations of Hon'ble Apex Court in case of ***Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121***. Siblings were dependent on the deceased as his father had already died and deceased was looking after his mother and siblings. The rate of interest awarded by the Tribunal is also not on higher side.

5. I have heard learned counsel for the appellant and learned counsel for claimants-cross-objectors and have perused the paper-book with their

assistance.

6. The Tribunal has taken income of the deceased as a daily wager and assessed the same as ₹4500/- per month. I do not find income of the deceased as assessed by the Tribunal on higher side. As father of the deceased was not alive, the Tribunal has rightly applied cut of 1/3rd towards personal expenses of the deceased. As per observations of Hon'ble Apex Court in case of ***Sarla Vema (supra)***, multiplier for the age group of 15 to 20 is 18 and the Tribunal has applied the multiplier of 16 while computing the amount of compensation towards loss of dependency. Claimants are also entitled to compensation on conventional heads as prescribed by Hon'ble Apex Court in case of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009***.

7. The deceased was a young boy of 16 years and was studying in 11th standard. After completing his studies, he would have involved himself in some avocation, profession or self-employment. Future prospects have been allowed by Hon'ble Apex Court in case of ***Pranay Sethi (supra)*** for regular employees as well as self employed/fixed salaried persons. Even the deceased would have fallen in that category after attaining the age of majority. Addition of 40% in income of the deceased towards future prospects can be allowed in this case.

8. In view of my above discussion, compensation to which claimants are entitled is reassessed as follows:-

Sr. No.	***Heads***	***Calculation***
(i)	Name of the deceased	Rohit
(ii)	Age of the deceased	16 years
(iii)	Monthly income of the deceased	₹4500
(iv)	40% of (iii) above to be added as future prospects	(₹4500+₹1800)= ₹6300 per month

(v)	1/3rd of (iii) above deducted towards personal expenses	₹6300- ₹2100) = ₹4200 per month
(vi)	Compensation calculated after applying the multiplier of 18	(₹4200X12X18) = ₹907200 per annum
(vii)	Funeral expenses	₹15000
(viii)	Loss of estate	₹15000
(ix)	Loss of consortium and loss of love and affection	₹40000
	Total	₹977200

9. As a sequel of my discussion above, the instant appeal (FAO no. 8142-2014) filed by the insurance company has no merit and the same is dismissed while the cross-objections (XOBJC-73-CII-2015) filed by claimants-cross-objectors have merit and are accepted. Award of the Tribunal is modified and the compensation allowed to claimants for death of Rohit is enhanced from ₹6,11,000/- to ₹9,77,200/-. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of the claim petitions till actual realization. Claimants will share the enhanced amount of compensation as follows:-

(i) Claimant no. 1-mother : 50%

(ii) Claimants no. 2 & 3 : 25% each.

10. Appellant-Insurance Company being insurer of the offending vehicle will deposit the share of claimant no. 1 in her bank accounts or pay the same through demand draft. The share of claimants-respondents No. 2 and 3, who are minor, will be deposited in some nationalized bank as fixed deposit till the period they attain majority. It is, however, made clear that the bank may take the documents regarding age of minor as required at the time of deposit of the amount and they shall not be asked to bring fresh order from the Tribunal to get the payment of the amount deposited in their name after the date of their attaining majority. The above direction has been issued to

save claimants from unnecessary harassment caused due to directions, the bank usually give to bring the order of Tribunal to get the payment even after minor claimant has attained age of majority. Claimant no. 1-Smt. Krishan, being mother and natural guardian of minor claimants shall be entitled to get interest on the share of minor deposited with bank, on monthly, quarterly, half yearly or annual basis, as per her convenience to meet expenses of their brought up.

11. In the event of demise of any of the claimants before or after passing of award, compensation of his/her share shall be paid to surviving claimants.

January 15, 2018 **(SURINDER GUPTA)**
jk **JUDGE**

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*