IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4576 of 2019 (O&M)
Date of decision: 25.07.2019

Iffco Tokio General Insurance Co. Ltd. ... Appellant

Versus

Bimla and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Vishal Aggarwal, Advocate for the appellant.

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REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against award dated 09.01.2019 passed by the Motor Accidents Claims Tribunal, Faridabad whereby compensation has been assessed on account death of Ranbir in a motor vehicular accident that took place on 29.10.2016.

The Tribunal awarded Rs.11,59,800/-, detailed in paras 30 and 31 of the award.

The sole submission made by counsel for the appellant is that as the deceased was unmarried son of late Yadram and claimants are married sisters and brothers of deceased Ranbir, the Tribunal has grossly erred while assessing loss of dependency to the tune of Rs.11,29,800/- by applying deduction for personal and living expenses to the extent of 1/3rd. It is further submitted that married sisters of the deceased cannot claim loss of dependency unless there are special circumstances pleaded in the case. It is further argued that even if the claimants are entitle to compensation qua loss of estate by applying multiplier method etc., admissible deduction for personal expenses should be 50%.

I have heard counsel for the appellant, perused the paper book particularly the award and copies of documents supplied during the course of hearing particularly statement of Rishi Pal, one of the claimants and brother of deceased Ranbir.

Counsel for the appellant, in view of testimony of Rishi Pal PW1, has not disputed that the deceased was a member of joint family and all the brothers had been making joint earning for the entire family. Rishi Pal was cross examined at length but no such fact has been elicited in his cross examination that the deceased was living independently and had not been sharing his income with the joint family consisting of 12 members. In the given circumstances, it is difficult to accept contention of the appellant that members of the joint family would not be entitle to loss of dependency by applying multiplier method. The matter would have been different, had the deceased been living independently and using his earnings for his personal upkeep and maintenance only because in that eventuality, sisters and brothers of the deceased would have been entitle to compensation being his legal representatives but in view of that they were not dependent upon income of the deceased. In this view of the matter, contention raised by counsel for the appellant is not meritorious and accordingly rejected.

No other point has been raised.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay is of academic relevance.

25.07.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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