

In the High Court of Punjab and Haryana at Chandigarh

FAO- 5240 of 2019 (O&M)
Date of Decision:22.8.2019

New India Assurance Company Limited

---Appellant

versus

Renu and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Harsh Aggarwal, Advocate
for the appellant

Rekha Mittal, J.

Challenge in the present appeal has been directed against award dated 10.5.2019 passed by the Motor Accidents Claims Tribunal, Panipat (in short “the Tribunal”) whereby compensation has been assessed on account of death of Gopal Singh in a motor vehicular accident that took place on 4.8.2017.

Counsel for the insurance company would inform that appeal has been filed to assail only quantum of compensation.

The Tribunal awarded Rs. 26,40,400/-, detailed hereunder:-

Monthly income of the deceased	Rs. 12,000/-
Deduction for personal expenses	1/4th
Multiplier	17
Addition in income for future prospects	40%
Loss of dependency	Rs. 25,70,400/-
Loss of consortium to widow	Rs. 40,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs. 15,000/-

The sole submission made by counsel is that the Tribunal

refused to rely upon plea of the claimants and testimony of Amit Goyal PW4 that deceased was working as Office Incharge with Apex World Wide, Shop No. 13, Tau Devi Lal Complex, Panipat at salary of Rs. 15,000/- per month but assessed his income at Rs. 12,000/- per month by treating him as unskilled worker. It is argued that minimum wage at the relevant time was approximately Rs. 8300/- per month, therefore compensation for loss of dependency is liable to be reduced. Counsel also made a vain attempt to argue that the Tribunal has wrongly applied cut of 1/4th towards personal and living expenses of the deceased but the same should be 1/3rd.

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

The Tribunal, in para 23 of the award, has rejected plea of the claimants that deceased was working with the aforesaid concern at salary of Rs. 15,000/- per month and assessed his income by treating him as an unskilled worker. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time, income of the deceased is assessed at Rs. 8500/- per month. Contention of the insurance company that the Tribunal has wrongly applied 1/4th cut in place of 1/3rd is misconceived and liable to be rejected for the reason that claim has been preferred by the widow and two minor children of deceased but parents of the deceased have been arrayed as respondents. Mother of the deceased cannot be ignored for computing loss of dependency even if she was living separately. In view of the above, loss of dependency is calculated at Rs. 18,20,700/- [8500 x 12 x 17 = 17,34,000 + 6,93,600 (40%) = 24,27,600 – 6,06,900 (1/4th)].

Compensation awarded under conventional heads is correct and affirmed.

Total compensation is Rs. 18,90,700/- and compensation assessed by the Tribunal is reduced to the extent of Rs. 7,49,700/- (26,40,400 – 18,90,700).

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

Before parting with this order, it is pertinent to mention that compensation has been reduced without notice to the claimants. The claimants would be at liberty to file an application before this Court, if they have any grievance to express. It is further clarified that any observations made hereinbefore shall not cause prejudice to the claimants if they prefer an appeal for enhancement.

(Rekha Mittal)
Judge

22.8.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No