IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

208 **FAO-4246-2012 with XOBJC-229-CII-2014(O&M)**

Date of Decision : July 17, 2019

KAMALJIT KAUR AND OTHERS

.....Appellants

VERSUS

HARBANS SINGH AND OTHERS

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. Jatinder Singla, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent No.3-Cross-objector.

NIRMALJIT KAUR, J. (Oral)

Vide this order, both the appeal and the cross-objections filed by the respondent-Insurance Company shall stand decided.

The appeal has been filed by the claimants for enhancement of the award dated 5.3.2012 vide which a total amount of Rs.5,60,800/- was granted.

While praying for enhancement, learned counsel for the appellants submitted that the deceased was only 30 years of age. No future prospects have been granted. Secondly, the appellants were also entitled to Rs.70,000/- towards conventional heads but only Rs.10,000/- was granted.

Learned counsel for the respondent-Insurance Company is not in a position to dispute that the claimants are entitled to the future prospects @ 40% in view of the age of the deceased being 30 years as well as maximum amount of Rs.70,000/- towards conventional heads as per the judgment rendered by the Hon'ble Supreme Court in the case of **National Insurance Company Limited** **vs.** **Pranay Sethi and others,** *2017 AIR(SC) 5157*. Thus, the claimants are entitled to the enhanced amount to the said extent.

Learned counsel for the respondent-Insurance Company while supporting the cross-objections submitted that the driver did not possess a valid driving licence. He was driving the tralla of ten tyres and, therefore, his licence as placed on record mark RI did not meet the requisite conditions. Further, the said mark RI was placed on record but has not been proved. Learned counsel for the appellants while opposing the cross-objections submitted that the same were not maintainable as they could have only raised an issue with respect to the quantum and not with respect to the driving licence for which a separate appeal should have been filed. The respondent-Insurance Company has not filed the appeal and has now filed the cross-objections after the delay of almost of two years after the filing of the appeal by the claimants for enhancement.

This Court needs not to go to the question of maintainability in asmuch as the respondent-Insurance Company does not even have a case on merit. The perusal of the driving licence shows that the same was valid both for HMV and HTV i.e. heavy transport vehicle. It is not disputed that for the purpose of driving the tralla, the driver was required to have the licence for transport vehicle with an endorsement of transport which the driving licence indeed carried. The same was duly placed on record as mark RI.

Accordingly, the cross-objections are dismissed.

However, in view of the discussion above, the claimants are entitled to the enhanced amount calculated as under:-

Sr. No.	Head	Amount assessed
1	Income	Rs.3600/- p.m. x 12 = Rs.43200/-
2	Future Prospects @ 40%	(3600 x 40% = Rs.1440) 3600+1440 = 5040/-
3	Deduction 1/4th	5040 x 1/4 = Rs.1260/- 5040-1260 = 3780
4		3780 x 12 =Rs.45360/-
5	Multiplier	45360 x 17 = Rs.7,71,120/-
6	Conventional Heads	Rs.70,000/-
7	Total	Rs.8,41,120/-
8	Compensation awarded by the Tribunal	Rs.5,60,800/-
9	Differences	Rs.8,41,120 – 5,60,800 = Rs.2,80,320/-

Accordingly, the present appeal is allowed to the said extent. The enhanced amount of Rs.2,80,320/- be deposited within two months from the receipt of certified copy of this order alongwith 6% interest from the date of the claim petition till realization.

However, in case the same is not deposited within two months, the same shall thereafter be deposited alongwith interest @ 12% till payment after the expiry of two months.

(NIRMALJIT KAUR)
JUDGE

July 17, 2019
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Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No