In the High Court of Punjab and Haryana at Chandigarh

FAO- 5420 of 2019 (O&M)
Date of Decision: 22.10.2019

United India Insurance Company Limited

---Appellant

versus

Paramjit Kaur and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Nitin Gupta, Advocate
for the appellant

***

Rekha Mittal, J.

CM No. 21498-CII of 2019

Heard.

Allowed as prayed for. Amended grounds of appeal are taken on record.

Main case

Challenge in the present appeal has been directed against award dated 22.5.2019 passed by the Motor Accidents Claims Tribunal, Moga (in short "the Tribunal") whereby compensation has been assessed on account of death of Kewal Singh in a motor vehicular accident that took place on 20.8.2016.

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

The sole submission made by counsel is that Tribunal has wrongly relied upon income tax return for the assessment year 2016-17

(Ex. C-8) to assess income of the deceased by holding that it is not case of the respondents therein that returns were filed after death of Kewal Singh. It is further argued that return for the assessment year 2016-17 is dated 31.3.2017 whereas Kewal Singh died on 20.8.2016, thus, the same was filed subsequent to death of Kewal Singh. It is further argued that in the return for the assessment year 2015-2016, annual income of deceased is Rs. 1,76,900/-. Counsel would inform that besides return Ex. C-8, no documents were produced by the claimants to prove income earned by the deceased till his death on 20.8.2016.

Para 13 of the award makes reference to income tax returns for assessment years 2013-14 (Ex. C5), 2014-15 (Ex. C6), 2015-16 (Ex. C7) and 2016-17 (Ex. C8). In para 14, it is stated that it was not case of respondents that returns were filed after death of Kewal Singh. The Tribunal failed to take into consideration that the latest return for assessment year 2016-17 was filed on 31.3.2017 when admittedly Kewal Singh died on 20.8.2016. The Tribunal has not made reference to any other materials produced on record with regard to income of deceased till his death to support income tax return for assessment year 2016-17. In the given circumstances, the Tribunal has seriously faulted by relying upon latest income tax return for assessment year 2016-17 in place of the latest income tax return for assessment year 2015-16 filed by the deceased himself. In the given circumstances, annual income of deceased is taken at Rs. 1,76,900/-.

The deceased was 45 years old at the time of unfortunate occurrence. The Tribunal has allowed addition in income for future prospects @ 10% in place of 25% available for the age bracket of 40-50 years. Other criteria adopted by the Tribunal for assessing loss of dependency is correct and affirmed. In this manner, loss of dependency is calculated at Rs. 19,16,417/- [1,76,900 x13 = 22,99,700 + 5,74,925 (25%) = 28,74,625 – 9,58,208(1/3rd)].

Compensation allowed under conventional heads is in consonance with the judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270**.

Total compensation is Rs. 19,86,417/- and compensation allowed by the Tribunal is reduced to the extent of Rs. 4,16,095/-.

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 respondents-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

22.10.2019
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No