IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**XOBJC No. 153-CII of 2017 (O&M) in
FAO No. 1259 of 2015 (O&M)
Date of Decision: September 16, 2019**

Oriental Insurance Company

...... Appellants(s)

Versus

Jagmal Singh @ Jagpal Singh and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vinod Chaudhri, Advocate
for the appellant-insurance company

Mr. Pankaj Katia, Advocate
for respondents no.1 to 7/cross-objectors.

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LISA GILL, J. (oral)

This judgment shall dispose of FAO-1259-2015, filed by the insurance company disputing the quantum of compensation awarded to the claimants vide award dated 03.11.2014, passed by the learned Motor Accident Claims Tribunal, Mohali (hereinafter referred to as 'the Tribunal) and the Cross Objection-153-CII-2017, filed by the claimants seeking enhancement of the compensation awarded to them by the Tribunal.

Claimants/respondents no.1 to 7 filed a petition under Section 166 of the Motor Vehicles Act, 1988 claiming compensation on account of death of Anita. The claimants are the father and siblings of the deceased, four of them being minor. It is claimed that Anita lost her life due to the injuries received by her in the motor vehicle accident, which took place on

23.04.2013, due to the rash and negligent driving of the offending truck bearing registration No. PB-08-BW-9582, by its driver Lakhbir Singh-respondent no.1. It is further pleaded that Anita, who was 16 years old at the time of her death, was doing labour work apart from looking-after the house being the eldest child. Her monthly income was claimed to be Rs.10,000/- per month.

Learned Tribunal on considering the evidence on record concluded that Anita lost her life due to the injuries received by her in the motor vehicle accident, which took place on 23.04.2013, due to the rash and negligent driving of the offending truck bearing registration No. PB-08-BW-9582, by its driver Lakhbir Singh-respondent no.1. There is no challenge to this finding of the learned Tribunal. Learned Tribunal assessed income of the deceased to be Rs.5,000/- per month and while dismissing the claim of the claimants/siblings, awarded a sum of Rs.11,05,000/- to the claimant-father, which is detailed as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income 5000 x 12	60,000/- per annum
2.	Total dependency after applying a multiplier of 18	60,000 **x** 18 = 10,80,000/-
3.	Funeral expenses	25,000/-
	Grand Total	**Rs.11,05,000/-**

Learned counsel for the appellant-insurance company submits that excessive compensation has been awarded by the learned Tribunal. The deceased was unmarried, therefore, apart from the fact that her income has been assessed at a much higher rate than justified, deduction has also not been effected. It is, thus, prayed that this appeal be allowed and the compensation awarded to the claimant be reduced.

Learned counsel for respondents no.1 to 7/cross-objectors, however, while refuting the above said arguments submits that compensation awarded to the claimants should be enhanced, though the claim of respondents no.2 to 7 is not seriously pressed.

I have heard learned counsel for the parties and have gone through the record.

There is no dispute regarding death of Anita in the motor vehicle accident, which took place on 23.04.2013, due to the rash and negligent driving of the offending truck bearing registration No. PB-08-BW-9582, by its driver Jagmal Singh-respondent no.1. She was 16 years old and the eldest of 8 siblings, 7 of whom were parties to the claim petition. Needless to say, being the eldest of all the children, she would necessarily be looking-after the house-hold work besides her younger siblings. Minimum wage of an unskilled labourer in the State of Punjab at the time of the accident i.e. on 23.04.2013 was Rs.5,695/- per month. Therefore, I consider it just and expedient to assess income of the deceased to be Rs.5,700/- per month. It is not denied that the mother of the deceased had also passed away in the accident in question. Keeping in view the peculiar facts and circumstances of the case as well as number of minor siblings, I deem it appropriate to effect a deduction of 1/3rd instead of 50% in this case. As the deceased was admittedly 16 years old at the time of the accident, multiplier of 18 was correctly applied by learned Tribunal. In terms of the judgment of Hon'ble Supreme Court in

National Insurance Company Limited v. Pranay Sethi and others*, *2017(16) SCC 680, 40% increment towards future prospects has to be afforded. Claimants are entitled to a sum of Rs.15,000/- each on account of funeral expenses and loss of estate instead of Rs.25,000/- awarded by the learned Tribunal towards funeral expenses. Claimant-father is entitled to a sum of Rs.40,000/-towards loss of filial consortium.

Appellant/cross-objector/claimants are, thus, entitled to compensation which is re-worked as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income # 5,700 x 12	68,400/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	68,400+**27**,360 (78,000 **x** 40%) = 95,760/-
3.	Income after 1/3rd deduction on account of personal and living expenses of the deceased	95,760 – 31,920 (95,760 x 1/3rd) = Rs. 63,840/-
4.	Total dependency after applying a multiplier of 18	63,840 **x** 18 = 11,49,120/-
5.	Funeral expenses	15,000/-
6.	Loss of estate	15,000/-
7.	Loss of filial consortium to father	40,000/-
	Grand Total	**Rs.12,19,120/-**

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimant/father shall be entitled to interest at the rate of 7.5% per annum on the entire amount, from the date of filing of the claim petition till realization.

With the modification in the amount of compensation, FAO-1259-2015 and XOBJC-153-CII-2017 are disposed of.

September 16, 2019.

Sunil

(LISA GILL)
JUDGE

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