

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.187 of 2015(O&M)

Date of decision: 17.12.2019

Reliance General Insurance Co. Ltd.

.....Appellant

VERSUS

Bimla Devi and others

.....Respondents

CORAM: **HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. R.K. Bashamboo, Advocate for the appellant.

 Mr. Sandeep Kotla, Advocate for respondents No.1 and 2.

REKHA MITTAL, J.

The present appeal directs challenge against award dated 26.08.2014 passed by the Motor Accidents Claims Tribunal, Fatehabad (in short 'the Tribunal') whereby compensation has been assessed on account of death of Prem Kumar in a motor vehicular accident that took place on 17.02.2011.

Counsel for the appellant would inform that the appeal has been preferred to assail only quantum of compensation.

The Tribunal, in application under Section 163-A of the Motor Vehicles Act, 1988 (in short 'the Act'), has awarded Rs.4,06,000/- detailed hereunder:-

Monthly income of the deceased	Rs.3300/-
--------------------------------	-----------

Deduction for personal expenses	1/3 rd
---------------------------------	-------------------

Multiplier	15
Loss of dependency	Rs.3,96,000/-
Loss of estate and funeral expenses	Rs.10,000/-

The sole submission made by counsel for the appellant is that since the claimants are married sisters of Prem Kumar (since deceased), they are not entitle to loss of dependency and at best, can be awarded Rs.50,000/- under 'No Fault Liability' and for this purpose reliance has been placed upon judgment of Hon'ble the Supreme Court **Smt. Manjuri Bera Vs. The Oriental Insurance Company Ltd. and another, 2007(2) RCR (Civil) 675.** Further reference has been made to judgment of this Court **Bijender and another Vs. Ranbir Singh and others, FAO No.1628 of 2013 decided on 19.09.2017.**

Counsel representing the respondents/claimants, on the contrary, has supported assessment of compensation by the Tribunal. It is argued with vehemence that as the respondents are the legal representatives of the deceased, they can maintain claim for grant of compensation. In support, he has relied upon judgment of Hon'ble the Supreme Court **Gujarat State Road Transport Corporation, Ahmedabad Vs. Ramanbhai Prabhatbhai and another, AIR 1987 SC 1690.** It is further argued that in **Montford Brothers of St. Gabriel and another Vs. United India Insurance and another etc., 2014(1) RCR (Civil) 884,** Hon'ble the Supreme Court rejected the plea that claim for compensation qua death of Alex Chandy Thomas who had renounced his family and joined the charitable society is not maintainable under Section 166 of the Act. Further reference has been made to judgment of this Court **Abdul Gani Naik and others Vs. Shyam Lal and others, FAO No.3245 of 2009,**

decided on 31.10.2014 wherein this Court allowed substantial amount in respect of loss of estate to daughters of Gaffar Naik @ Gaffar (since deceased) after noticing judgment of Hon'ble the Supreme Court in **Manjuri Bera's case** (supra) while modifying the award passed by the Tribunal allowing compensation only to the extent of Rs.50,000/- under 'No Fault Liability'.

I have heard counsel for the parties, perused the paper-book and records.

There is no denial that the respondents/claimants are the married sisters of deceased Prem Kumar. The question for consideration is that even if the claimants are not actually dependent upon the deceased, their claim should be limited to Rs.50,000/- under 'No Fault Liability' or can be allowed substantial amount towards loss of estate. This Court in **Abdul Gani Naik and others case** (supra) assessed compensation by applying multiplier method and daughters of the deceased were awarded Rs.1,56,000/- towards loss of estate. Counsel for the appellant, in response to a query, would fairly inform that the judgment in **Abdul Gani Naik and others case** (supra) passed by this Court has attained finality. Taking into consideration the judgment in **Abdul Gani Naik and others case** (supra) and decision in **Miss Nandini minor and others Vs. Amrik Singh and others, FAO No.450 of 1994 decided on 27.01.2011** by this Court, contention of the appellant that compensation is liable to be restricted to Rs.50,000/- under 'No Fault Liability' cannot be accepted.

This brings the Court to, what compensation should be allowed to the respondents even with regard to loss of estate. The Tribunal has assessed income of the deceased at Rs.3300/- per month and the same

is affirmed. This Court will deviate from the structured formula laid down in the Second Schedule, in the given special circumstances. Admissible deduction for personal expenses would be 60%. The multiplier applied by the Tribunal is correct and affirmed. In this manner, compensation with regard to loss of estate is calculated at Rs.2,37,600/- [Rs.5,94,000/- (Rs.3300/- x 12 x 15) – Rs.3,56,400/- (60% deduction towards personal expenses)].

The respondents shall be entitle to Rs.2000/- for expenses on funeral.

In view of the above, total compensation is Rs.2,39,600/- and compensation allowed by the Tribunal is reduced to the extent of Rs.1,66,400/- (Rs.4,06,000/- - Rs.2,39,600/-). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

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

DECEMBER 17, 2019
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no

FAO No.187 of 2015(O&M)

Reliance General Insurance Co. Ltd.

.....Appellant

VERSUS

Bimla Devi and others

.....Respondents

CORAM: **HON'BLE MRS. JUSTICE REKHA MITTAL**

Reserved

d.gulati