IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

231 FAO-1216-2016 (O&M)

Date of decision: 13.12.2019

BHARTI AXA GENERAL INSURANCE COMPANY LTD. ... Appellant

Versus

SUKHVIR KAUR & ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Rajbir Singh, Advocate
for the appellant.

Mr. Arundeep, Advocate for
Mr. RS Pandher, Advocate
for respondents No.1 to 3 and 6.

Mr. Vishal Munjal, Advocate for
Mr. Sunil Agnihotri, Advocate respondents No.4 and 5.
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REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against award dated 26.02.2015 passed by the Motor Accidents Claims Tribunal, Ludhiana whereby compensation has been assessed on account of death of Avtar Singh in a motor vehicular accident that took place on 22.01.2014.

Counsel for the insurance company would inform that appeal has been filed to assail quantum of compensation and findings of the Tribunal on the question of driving licence.

The Tribunal awarded Rs.20,50,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.20,000/-
Multiplier	11
Deduction for personal expenses	1/4th
Loss of dependency	Rs.19,80,000/-
Expenses on funeral	Rs.20,000/-
Loss of consortium	Rs.50,000/-

Counsel for the appellant would argue that as per plea of claimants, the deceased was working as Variety Checker with Nahar Industrial Enterprises at salary of Rs.13,834/- per month. It is argued that the Tribunal has wrongly extended benefit of agricultural income in the circumstances that deceased was working in the aforesaid concern. Another submission made by counsel is that claim has been filed by the widow, minor son and father of the deceased and as such, deduction for personal expenses should be 1/3rd.

Counsel representing the claimants, on the contrary, has supported findings of the Tribunal with regard to assessment of monthly income of the deceased who was owner of 7 acres of land proved on record. It is further argued that claimants may be extended benefit of addition in income for future prospects in exercise of jurisdiction under Order 41 Rule 33 of the Code of Civil Procedure.

Counsel for the insurance company has not disputed that as per evidence on record, the deceased was proved to be owner of 7 acres of land. Even if the deceased was working with Nahar Industrial Enterprises, he could manage his agricultural land as well. The deceased died in January, 2014. The Tribunal has extended benefit of more than Rs.6000/- per month with regard to loss of managing skills of the deceased. I do not find any reason to interfere in assessment of monthly income of the deceased. Claimants shall be entitle to addition in income for future prospects @ 10%. Multiplier applied by the Tribunal is correct and affirmed.

The claim has been filed by the widow, minor son and father of the deceased whereas daughter of the deceased has been arrayed as respondent No.4 therein. Counsel for the claimants has conceded that daughter of the deceased is married and residing in Canada. In the given circumstances, admissible deduction for personal expenses would be 1/3rd. In this manner, loss of dependency is calculated at Rs.19,36,000/- [(20,000 x 12 x 11) + (10% future prospects) – (1/3rd deduction for personal expenses)].

Under conventional heads, compensation allowed is modified to the effect that claimants shall be entitle to Rs.70,000/-, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

Total compensation is Rs.20,06,000/-. Compensation awarded by the Tribunal is Rs.44,000/- more. As such, assessment made by the Tribunal is kept intact.

Statutory amount of Rs.25,000/- shall be remitted to the

Tribunal for payment to the claimants.

The appeal is disposed of in the aforesaid terms.

13.12.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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