IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

227 **FAO No.1410 of 2016 (O&M)**
Date of Decision : 12.03.2019

Iffco Tokio General Insurance Company Limited. ….Appellant

V/S

Pavitra And Others. ….Respondents

Coram : **<u>Hon'ble Mr. Justice B.S. Walia</u>**

Present: Mr. Neeraj Khanna, Advocate and
Mr. Ravinder Arora, Advocate
for the appellant.

Ms. Bhavna Grewal, Advocate for
Mr. S.K. Yadav, Advocate
for respondent Nos.1 to 3/Claimants.

<u>B.S. Walia, J. (Oral)</u>.,

1. Appeal has been filed by the Insurance Company challenging award of compensation of ₹6,00,200/- dated 28.08.2015, passed by the learned Motor Accidents Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal') arising out of a claim petition filed by the widow, two minor sons and father of the deceased Ajit Singh, who died in a motor vehicular accident on 15.03.2014. Prayer is for acceptance of the appeal and for setting aside of the award.

2. Learned counsel for the appellant contends that no doctor was examined to prove that Ajit Singh died on account of injuries suffered by him in the accident. Per contra learned counsel for the respondents contends that perusal of paragraph No.9 of the award reveals that as per the statement of a bystander PW-2, i.e. Babu Lal the truck bearing regd.No.HR-66B/2784 was going towards Bahadurgarh from Delhi by observing rules of traffic, when suddenly

a bus turned towards the right side in front of the truck, and the truck driver took the truck towards the conductor side to save the impact but he lost balance as a result of which the truck hit the poles, due to which Ajit Singh, driver of the truck received serious injuries and was trapped in the cabin and died at the spot due to the injuries received.

3. In the light of stand of counsel for the respondents, learned counsel for the appellant contended that he did not press the appeal on any other ground except that the compensation of ₹1,00,000/- awarded on account of loss of consortium, ₹25,000/- on account of funeral expenses and 1/4th deduction ordered on account of personal expenses was legally unsustainable for as per note 3 to the Second Schedule to Section 163(A), general damages awardable are ₹2,000/- on account of funeral expenses, ₹5000/- on account of loss of consortium to the spouse and ₹2,500/- on account of loss of estate. Besides, deduction permissible as per the note to the Second Schedule is to be @ 1/3rd of the income of the deceased towards his personal expenses as against 1/4th ordered by the learned Motor Accidents Claims Tribunal, Narnaul (hereinafter referred to as '*the Tribunal'*).

4. Learned counsel for the respondents-claimants states that she does not oppose the aforementioned plea of learned counsel for the appellant but contends that multiplier of '16' applied was incorrectly applied as against requirement to apply multiplier of '17' in view of the deceased having been proved to be 35 years of age.

5. I have considered the submissions of learned counsel for the parties.

6. Admittedly, claim petition was filed under Section 163(A) of the Motor Vehicles Act, 1988. As per the note to Second Schedule to Section 163(A), the amount of compensation arrived at in the case of a fatal accident is to be

reduced by 1/3rd in consideration of the expenses, which the victim would have incurred towards maintaining himself. Accordingly, as against deduction of 1/4th ordered by the Tribunal, deduction is ordered to be made @ 1/3rd of the income of the deceased towards his personal expenses. Likewise, in view of note 3 to the Second Schedule to Section 163(A) of the Motor Vehicles Act, only a sum of ₹2,000/- is payable on account of funera1 expenses as against ₹25,000/- awarded by the learned Tribunal, Narnaul, likewise, ₹5000/- is payable on account of loss of consortium to the widow of the deceased as against ₹1,00,000/- awarded by the learned Tribunal, Narnaul.

7. As regards plea of learned counsel for the respondents-claimants that multiplier of '17' was applicable, I am afraid that the same is devoid of merit in view of the categorical statement of the claimants that the deceased was 35 years of age. As per the Second Schedule to Section 163(A), multiplier of **'17'** is applicable in the case of a deceased in the age group of 32 to 35 years. It is not the case of the respondents-claimants that the deceased was less than 35 years of age. In the absence of it being the stand of the respondents-claimants that the deceased was less than 35 years of age, multiplier of '17' could not have been applied. Accordingly, it is multiplier of '16' which was correctly applied.

8. In the light of the position as noted above, the appeal is allowed to the extent as noted above and respondents-claimants are held entitled to the following compensation:-

Particulars	**Assessed by the Tribunal (in ₹)**	**Re-assessed by the High Court (in ₹)**
Income assessed	3300	3300
Add:Future Prospects	--	--

Deductions	1/4th of 3300=825	1/3rd of 3300=1100
Total Income	2475	2200
Multiplier	‘16’	‘16’
Dependency	2475x12x16=4,75,200/-	2200x12x16=4,22,400/-
Funeral Expenses	25,000/-	2,000/-
Loss of Estate	--	2,500/-
Loss of consortium	1,00,000/-	5,000/-
Total compensation	**6,00,200/-**	**4,31,900/-**

9. Accordingly, as against compensation of ₹6,00,200/-, awarded by the learned Tribunal, Narnaul, the respondents-claimants are held entitled to award of ₹4,31,900/- along with interest @ 7.5% per annum with effect from the date of claim petition, till date of payment, less payment if any, already made.

(B.S. Walia)
Judge

March 12, 2019
‘Rajneesh’

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