IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision: 15.03.2019

(1) FAO No. 4928 of 2013

Reena and others

.......Appellants

Versus

Manoj Kumar and others

......Respondents

(2) FAO No. 5525 of 2013

Shri Ram General Insurance Company Ltd.

.....Appellant

Versus

Reena and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Bhrigu Agnihotri, Advocate for
Mr. Shiva Khurmi, Advocate (Amicus-curiae) and
Mr. Subhash Rana, Advocate for
Mr. Harish Nain, Advocate
for the appellants (claimants) (in FAO No. 4928 of 2013.)

Mr. Arun Sharma, Advocate for
Mr. Tajender K. Joshi, Advocate
for the Insurance Company.

Mr. Rishab Lohan, Advocate for
Mr. R.N. Lohan, Advocate
for respondents No. 5 & 6 in FAO No. 5525 of 2013 and
for respondents No. 1 and 2 in FAO No. 4928 of 2014.

AVNEESH JHINGAN, J.(oral)

The award dated 2.4.2013 passed by Motor Accident Claims Tribunal, Rohtak, has been assailed by filing two appeals. One appeal is by by the insurer of Truck bearing registration No.HR-56-A-0269 (for short 'the offending vehicle') and another by legal heirs of Jai Pal Singh. The issue in both the appeals is regarding quantum of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'). As common issue is involved, both the appeals are disposed of by a common order.

The facts with regard to accident are not in dispute between the parties. A motor vehicular accident took place on 9.11.2011. The accident proved fatal for Jai Pal, aged 29 years. The accident was caused due to the rash and negligent driving of the offending vehicle.

In the claim petition filed before the Tribunal, it was proved that the deceased was working as a Haryana Government employee with State Excise Department. His salary was proved as ₹ 2,63,520/- per annum. The Tribunal deducted 30% by way of income-tax, 50% future prospects were awarded, 1/3rd deduction for self-expenses was made and multiplier of 17 was applied. The Tribunal awarded a sum of ₹ 31,50,888 /- along with interest at the rate of 7.5% per annum. The amount awarded included ₹ 15,000/- towards funeral expenses and ₹ 25,000/- for loss of consortium.

Learned counsel for the insurer contends that the legal heirs of deceased have received financial assistance under *The Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006* (for brevity 'the Rules') which is to be deducted in view of the decision of Supreme Court in ***Reliance General Insurance Company Ltd. Versus Shashi Sharma and others, JT*** **2016 (12) SC 409.**

Learned counsel for the claimants contends that the Tribunal erred in deducting 30% of the entire income as income-tax. The grievance raised is that the amount awarded under the conventional heads is not as per the decision of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157.***

The contention raised by learned counsel for the insurer deserves acceptance. As per the decision of the Supreme Court in **Shashi Sharma's case (supra)**, the amount received under the Rules has to be deducted.

The Tribunal also erred in deducting 30% straight way from the income of the deceased as income-tax as it has to consider the deduction available and the nil slab during the relevant assessment year and thereafter reach to the figure of income-tax payable from the salary. The claimants are also entitled to conventional heads as per the decision of the Supreme Court in **Pranay Sethi's case (supra).**

In order to decide the issue regarding income tax deduction and deduction of financial assistance, certain factual aspects need to be decided for which further evidence would be required. The matter only with regard to quantum of compensation is remitted back to the Tribunal to be decided afresh in accordance with law after providing opportunity to the parties to adduce evidence in support of their claim.

Parties are directed to appear before the Tribunal on 30.4.2019.

Disposed of accordingly.

(AVNEESH JHINGAN)
JUDGE

15.03.2019
reema

Whether speaking/reasoned Yes
Whether Reportable: No