In the High Court of Punjab and Haryana at Chandigarh

Date of Decision:8.5.2019

FAO No. 1787 of 2016(O&M)

New India Assurance Company Limited

---Appellant

versus

Tej Kaur and others

---Respondents

FAO No. 3164 of 2016(O&M)

Tej Kaur and others

---Appellants

versus

Arjun and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Vinod Gupta, Advocate
for the insurance company

Mr. Vivek Suri, Advocate,
for the claimants

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Rekha Mittal, J.

This order will dispose of FAO Nos. 1787 and 3164 of 2016 as these have emerged out of the same award dated 14.12.2015 passed by the Motor Accidents Claims Tribunal, Rupnagar (in short “the Tribunal”) whereby compensation has been assessed on account of death of Gurdial Singh in a motor vehicular accident that took place on 26.7.2014.

FAO No. 1787 of 2016 has been filed by the New India Assurance Company Limited (hereinafter referred to as "the insurance company") whereas the other appeal has been filed by the claimants seeking enhancement of compensation.

Counsel for the insurance company would inform that the appeal has been preferred to assail only quantum of compensation assessed by the Tribunal.

The Tribunal awarded Rs. 59,91,222/-, detailed hereunder:-

Annual income of the deceased	Rs. 6,07,092/-
Deduction for personal expenses	1/4th
Multiplier	13
Loss of dependency	Rs. 59,16,222/-
Loss of love and affection	Rs. 25,000/-
Loss of consortium	Rs. 25,000/-
Transportation expenses and last rites	Rs. 25,000/-

Counsel for the claimants would inform that the deceased was employed as Punjabi teacher in Government Middle School, Betrehan Ambala-I (Haryana). Till date, widow of the deceased has not been allowed benefit of financial assistance under the Haryana Compassionate Assistance to the dependants of the Deceased Government Employees Rules, 2006 (in short "Rules of 2006"). He would undertake that the claimants would not seek any such financial assistance in future under the Rules of 2006. He prays for enhancement of compensation by extending benefit of addition in income for future prospects @ 30% and adequate compensation under conventional heads.

Counsel for the insurance company, on the contrary, would argue that income tax has been deducted only to the extent of Rs. 21,520/- on gross salary of Rs. 6,28,612/- per annum.

The claimants, in view of undertaking given by their counsel, would not receive any financial assistance under the Rules of 2006. The annual salary of the deceased was Rs. 6,28,752/-. After deducting income tax Rs. 52,274/-, net annual income is Rs. 5,76,478/-(6,28,752-52,274). Claimants shall be entitle to addition in income @ 30%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs. 73,06,858/- [5,76,478 x 13=74,94,214 +22,48,264 (30%)=97,42,478 -24,35,619(1/4th)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs. 70,000/- in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270** and **Sebastiani Lakra and others vs. National Insurance Company Limited and another AIR 2018 SC 5034,** detailed hereunder:-

Loss of consortium to widow	Rs. 40,000/-
Expenses on funeral	Rs. 15,000/-
Loss of estate	Rs. 15,000/-

Total compensation is Rs. 73,76,858/- and the additional amount is Rs. 13,85,636/- (73,76,858-59,91,222), payable with interest @ 7.5% per annum from the date of petition till realization, to be shared by widow and children of the deceased in the ratio 70:30. 30% amount payable to children would be shared by them equally. The additional amount payable to the widow shall be invested in a fixed deposit for a period of two years.

The appeals are disposed of in the aforesaid terms.

A copy of the judgment be sent to the District Education

Officer, Ambala-I for necessary intimation that family of Gurdial Singh (since deceased) shall not be entitle to compassionate assistance under the Rules of 2006, in view of undertaking given by their counsel.

(Rekha Mittal)
Judge

8.5.2019
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No