IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

224 FAO-1791-2016 (O&M)

Date of decision: 10.07.2019

ORIENTAL INSURANCE COMPANY LIMITED ... Appellant

Versus

SURINDER KAUR AND ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ram Avtar, Advocate for the appellant.
None for the claimants.
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REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 30.11.2015 passed by the Motor Accidents Claims Tribunal, SAS Nagar Mohali whereby compensation has been assessed on account of death of Harbhajan Singh in a motor vehicular accident that took place on 31.03.2015.

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

The Tribunal awarded Rs.31,05,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.15,000/-
Addition in income for future prospects	50%
Multiplier	16
Deduction for personal expenses	1/3rd
Loss of dependency	Rs.28,80,000/-
Expenses on funeral	Rs.25,000/-
Loss of consortium	Rs.1,00,000/-
Loss of love and affection, care and guidance to claimant No.2	Rs.50,000/-
Loss of love and affection to claimant No.4	Rs.50,000/-

Counsel for the appellant would argue that there is no evidence adduced by the claimants to prove that the deceased was owner of vehicle mark Maximo. The Tribunal has noticed that claimants have not proved any document with regard to income of the deceased but still the Tribunal has assessed his income at Rs.15,000/- per month. It is argued that minimum wage of a skilled worker at the relevant time was approximately Rs.8500/- per month.

Another submission made by counsel is that addition in income for future prospects and compensation under conventional heads may be modified in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**.

There is no representation on behalf of the claimants/respondents No.1 to 3 who were earlier being represented by a counsel.

The plea of claimants is that deceased was owner cum driver of Maximo thereby earning Rs.25,000/- per month. The driving licence of the deceased has been produced on record which was valid on the day of occurrence. The occurrence in question took place when the deceased along with his family was coming from village Ratangarh towards village Jandpur in vehicle Maximo No. PB-65AB(T)-1524 driven by Harbhajan Singh (since deceased). Taking a clue from notification issued by the State of Punjab fixing minimum wage of a skilled worker at the relevant time and in absence of any challenge to testimony of Surinder Kaur that the aforesaid vehicle was owned by Sh. Harbhajan Singh, I do not find any reason to interfere in findings with regard to assessment of monthly income of the deceased. However, addition in income for future prospects would be 40% in the light of judgment in **Pranay Sethi and others's case (supra)**. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.26,88,000/- [(15,000 x 12 x 16) + (40% future prospects) – (1/3rd deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal 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.27,58,000/- and compensation allowed by the Tribunal is reduced to the extent of Rs.3,47,000/- (31,05,000 - 27,58,000). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

The appeal is partly allowed in the aforesaid terms.

10.07.2019 **(REKHA MITTAL)**

ashok **JUDGE**

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No