IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

-.-

FAO No. 4525 of 2014 (O&M)
Date of decision: 29.01.2019

National Insurance Co Limited ...*Appellant*

versus

Monika and others ...*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Mr. Navin Kapur, Advocate
for the appellant

None for respondents No. 1 to 4

-.-

Rekha Mittal, J. (Oral)

The present appeal directs challenge against award dated 09.12.2013 passed by the Motor Accidents Claims Tribunal, Jalandhar (in short, 'the Tribunal') whereby compensation has been assessed on account of death of Sohan Lal in a motor vehicular accident that took place on 28.08.2011.

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

The Tribunal has awarded compensation of Rs.20,65,000.00, detailed hereunder:-

Monthly income of the deceased	Rs.15,000.00
Deduction for personal expenses	1/3rd
Multiplier	16
Loss of dependency	Rs.19,20,000.00
Loss of consortium	Rs.1,00,000.00
Funeral expenses	Rs.25,000.00
Medical expenses	Rs.20,000.00

Counsel for the insurance Company would argue that the claimants did not approach the Court with clean hands and tried to create evidence with regard to employment of Sohan Lal with a concern in which his brother Ram Lal (PW2) was stated to be a partner and examined said Ram Lal to prove that the deceased was working as Manager with M/s TRS Motors, Jalandhar at salary of Rs.21,500.00 per month. It is further argued that the Tribunal, on a detailed consideration of testimony of Ram Lal (PW2) including facts elicited in his cross examination, had refused to accept plea of the claimants that the deceased was employed with M/s TRS Motors, Jalandhar. It is further argued that the Tribunal has assessed income of deceased at Rs.15,000.00 per month by holding that the deceased was studying Master of Business Administration (MBA) and his result was declared after his death. It is further argued that claimants produced on record documents Ex.P44 to P47 with regard to deceased doing MBA from Punjab Technical University, Jalandhar but the Tribunal has failed to take into consideration that as per document Ex.P46, detail marks card in respect of third semester examination in March 2011 issued on 17.06.2011, Sohan Lal got reappear in Paper-I i.e. Applied Operation Research (External). It is further argued that there is no document on record showing that before his death in August, 2011, Sohan Lal had reappeared in Paper I of third Semester and cleared the examination either before or after his death which goes to show that Sohan Lal had not completed MBA by the time, he passed away. According to counsel, income of the deceased is liable to be assessed by taking a clue from the notification issued by the State of Punjab fixing minimum wage at the relevant time and wage of highly skilled person was Rs.5,107.00 per month. Another submission made by Counsel that compensation allowed under conventional heads needs to be restricted to Rs.70,000.00, in the light of judgments of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SCC 1270*** and ***Sebastiani Lakra and others vs. National Insurance Company Limited and another, 2018 AIR (SC) 5034.***

There is no representation on behalf of claimants who were earlier being represented by a counsel.

Indisputably, the deceased was a graduate and had been pursuing MBA from the Punjab Technical University, Jalandhar. He had passed fourth semester examination held in March 2011 as per document Ex.P47 but got reappear in third semester in Paper I 'Applied Operation Research (external)'. Meaning thereby that the deceased had not completed MBA before his unfortunate demise in August 2011. However, taking into consideration the minimum wage of skilled worker coupled with educational qualification of the deceased along with the fact that he was to complete his MBA, had he remained alive, interest of justice would be served if income of the deceased is assessed at Rs.10,000.00 per month. The claimants shall be entitle to addition in income for future prospects at the rate of 40%.

The Tribunal has allowed deduction for personal and living expenses to the tune of 1/3rd. The application for compensation has been filed by the widow, two minor children and parents of the deceased. Even if father of the deceased is not held to be dependent upon income of the deceased, admissible deduction for personal expenses would be 1/4th. Multiplier adopted by the Tribunal is correct and affirmed.

In this view of the matter, loss of dependency is calculated at Rs.20,16,000.00 (Rs.19,20,000.00 *i.e.* 10,000 x 12 x 16 + Rs.7,68,000.00 (40% addition) – Rs.6,72,000.00 (1/4th (deduction)).

Under conventional heads, compensation awarded by the Tribunal is modified to the extent that claimants shall be entitle to Rs.70,000.00 (Rs.40,000.00 for loss of consortium, Rs.15,000.00 each qua loss to estate and funeral expenses), admissible in the light of judgments of Hon'ble the Supreme Court relied upon by counsel for the insurance company.

Total compensation is calculated at Rs.20,86,000.00 (Rs.20,16,000.00 + Rs.70,000.00) and additional amount is Rs.21,000.00 (Rs.20,86,000.00 – Rs.20,65,000.00) payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 2870 days in filing the appeal, to minor children of the deceased in the ratio of 40:60 to be invested in FDR till they attain the age of majority or for a period of three years, whichever is later.

In view of the above, the appeal stands disposed of in the aforesaid terms.

(Rekha Mittal)
Judge

29.01.2019
mohan bimbra