IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

211 Date of decision: 03.07.2019

FAO No.3251 of 2015 (O&M)

Reliance General Insurance Co. Ltd. ... Appellant

Versus

Saheed and others ... Respondents

FAO No.7193 of 2015 (O&M)

Saheed and others ... Appellants

Versus

Mehtab and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. SS Khurana, Advocate for the claimants.
Mr. RK Bashamboo, Advocate for the insurance company.
****

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.3251 and 7193 of 2015 as these have emerged out of the same award dated 28.01.2015 passed by the Motor Accidents Claims Tribunal, Gurgaon whereby compensation has been assessed on account of death of Farman in a motor vehicular accident that took place on 02.07.2013.

FAO No.3251 of 2015 has been filed by Reliance General Insurance Co. Ltd. (hereinafter referred to as 'the insurance company') whereas the other appeal has been preferred by the claimants seeking enhancement of compensation.

Counsel for the insurance company would inform that the only challenge in appeal filed by the insurance company survives qua quantum of compensation and driving licence.

The Tribunal awarded Rs.8,85,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.5000/-
2. Addition in income for future prospects	50%
3. Multiplier	18
4. Deduction for personal expenses	50%
5. Loss of dependency	Rs.8,10,000/-
6. Expenses on funeral	Rs.25,000/-
7. Loss of love and affection	Rs.50,000/-

The plea of claimants is that deceased was doing business of sale and purchase of buffaloes and other cattle thereby earning Rs.25,000/- per month. Counsel for the claimants has not disputed factual finding that claimants failed to substantiate their plea in this regard. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.5400/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.8,16,480/- [(5400 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.30,000/- in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270** and **Sebastiani Lakra and others vs. National Insurance Company Limited and another AIR 2018 SC 5034**, detailed hereunder:-

1. Expenses on last rites	Rs.15,000/-
2. Loss of estate	Rs.15,000/-

Total compensation is Rs.8,46,480/- and compensation awarded by the Tribunal is to the tune of Rs.8,85,000/-. Keeping in view the legislative intent behind the provisions allowing compensation, amount awarded by the Tribunal is kept intact.

Counsel for the insurance company would argue that driver of offending vehicle was not holding a valid licence. Admittedly, owner of the vehicle appeared in the witness box and deposed that he had seen the licence while giving employment to the driver and had checked his licence from Licensing Authority, Gurgaon. The Tribunal has rightly relied upon judgment of Hon'ble the Supreme Court **Pepsu Road Transport Corporation Vs. National Insurance Co. Ltd., 2013(4) RCR (Civil) 273** to reject plea of the insurance company that the insured is guilty of violating the terms and conditions of policy. That being so, findings of the Tribunal on question of driving licence are liable to be affirmed and ordered accordingly.

No other point has been raised.

For the foregoing reasons, both the appeals stand disposed of.

03.07.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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