**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

<u>FAO-2486-2017 (O&M)</u>
Date of Decision: 24.7.2019

Reliance General Insurance Co. Ltd. .....Appellant

Versus

Bhavi Damai and others ....Respondents

<u>FAO-3437-2016</u>

Bhavi Damai and another .....Appellants

Versus

Amrik Singh and others ....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Sanjeev Kodan, Advocate, for the Insurance Company-appellant in FAO-2486-2016 and for Insurance Company-respondent in FAO-3437-2016.

Mr. Kulwant Singh Dhanora, Advocate, for the appellants in FAO-3437-2016 and for the respondents in FAO-2486-2016.

<u>NIRMALJIT KAUR, J. (ORAL)</u>

Both the above mentioned appeals shall stand decided by this common order.

FAO-2486-2016 is filed by the Insurance Company for setting aside the award dated 3.2.2016 passed by the Motor Accident Claims Tribunal, Kurukshetra (for short, 'the Tribunal'), vide which, income of the deceased was assessed at DC rate.

FAO-3437-2018 is filed by the claimants seeking enhancement of compensation awarded by the Tribunal.

While praying for setting aside the award of the Tribunal, learned counsel for the Insurance Company submitted that while assessing the income of the deceased, DC rate has been taken into consideration, whereas, in the present case, minimum wages as per the notification of the Government should have been taken into consideration. Reliance has been placed on the judgment of Hon'ble the Apex Court rendered in the case of Rajan vs. Soly Sebastian and others, 2015(3) RCR (Civil) 962. The second argument raised by learned counsel for the Insurance Company is with respect to the future prospects. It is stated that future prospects should have been 40% and not 50% as per the judgment rendered by the Hon'ble Supreme Court in the case of National Insurance Company Limited vs. Pranay Sethi and others, 2017 AIR (SC) 5157.

While filing FAO-3437-2016 for enhancement of compensation, learned counsel for the claimants submitted that no amount has been granted towards loss of estate and only ₹ 25,000/- has been awarded towards consortium.

While disputing the aforesaid fact, learned counsel for the Insurance Company submitted that the deceased was bachelor and therefore, at all it could not be more than ₹ 30,000/-.

Learned counsel for the claimants is not able to dispute the settled proposition of law laid down in the case of Rajan (supra), wherein it has been held that the income of the deceased should have been assessed after taking into consideration the relevant minimum wages fixed by the government and future prospects at 40% in view of the settled proposition of law laid down in the case of Pranay Sethi's (supra). Accordingly, the income should be assessed as ₹ 5,886/- per month instead of ₹ 10,200/- per month as per Rajan's case (supra) and the future prospects too have to be reduced to 40% instead of 50% in view of Pranay Sethi's case (supra).

On the other side, this Court is of the view that the other claimants are entitled to ₹ 40,000/- each as per the judgment of Hon'ble the Apex Court rendered in the case of Magma General Insurance Co. Ltd. vs. Nanu Ram alias Chuhru Ram and others, 2018(4)RCR (Civil) 333. There being two claimants, the claimants are entitled to enhanced compensation under the conventional heads to the extent of ₹ 80,000/-. In view of the above, the award dated 3.2.2016 of the Tribunal requires to be modified as under:-

Income	₹ 5,886/- per month
Future prospects	40% (₹ 2354/-)
Deduction	½
Multiplier	18
Loss of dependancy	₹ 8,89,920/-
Conventional Heads	₹ 1,10,000/-
Total	₹ 9,99,920/-
Awarded by the Tribunal	₹ 16,77,400/-

Thus, total amount of ₹ 9,99,920/- is awarded to the claimants. The said amount be now deposited, if already not deposited within two months from today along with interest as per the award passed by the Tribunal. In case, the said amount is not deposited within two months, the Insurance Company shall be liable to pay interest @ 12% per annum after the expiry of the aforesaid period of two months. However, in case excess amount beyond ₹ 9,99,920/- has been deposited by the Insurance Company, the same shall be recovered.

The award of the Tribunal accordingly stands modified as above. Disposed of.

(NIRMALJIT KAUR)
JUDGE

24.7.2019
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Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No