IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

-.-

FAO 3076 of 2016 (O&M)
Date of decision: 20.05.2019

National Insurance Company Limited ....*Appellant*

Versus

Joginder Pal and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Pradeep Kumar, Advocate
for the appellant

Mr. Chandan Deep Singh, Advocate
for respondents No. 1 to 3

Mr. Prabhjot Singh, Advocate
for Mr. Amit Dhawan, Advocate
for respondent No. 4

Ms Jyotika, Advocate for
Ms Ritu Punj, Advocate
for respondent No. 5

-.-

Rekha Mittal, J. (Oral)

The present appeal directs challenge against award dated 23.12.2015 passed by the Motor Accidents Claims Tribunal, Jalandhar (in short, 'the Tribunal') whereby compensation has been assessed on account of death of Deepak Kumar alias Deepu son of Shri Joginder Pal in a motor vehicular accident that took place on 03.06.2013.

The Tribunal has assessed income of the deceased at Rs.20,000.00 per month, on the basis of salary certificate Ex.P2/D, purported to be issued by M/s Mittra Precise Forgings Private Limited for a period of one month but the claimants did not examine a representative of the said concern to prove employment and income of the deceased. This Court is not agreeable to assess income of deceased on the basis of salary certificate Ex.P2/D.

Counsel for respondents No. 1 to 3 would state that even if salary certificate Ex. P2/D is not taken into consideration for computing loss of dependency, income tax return filed by the deceased on 30.03.2013 (before his death) is also on record that reflects his income from salary as well as business. He would further state that the matter with regard to assessment of compensation may be remitted to the Tribunal to examine a witness from the Income Tax Department to prove income tax return, relied upon by the claimants. Counsel would further submit that the claimants are entitle to addition in income for future prospects as well.

Counsel for the insurance company has got no objection if findings of the Tribunal in regard to assessment of compensation are set aside and matter is remitted to the Tribunal for assessment of compensation afresh on the basis of materials already on record and additional evidence of an official from Income Tax Department to be examined by the claimants and rebuttal evidence to be led by the insurance company.

In view of the above, the appeal stands disposed of; findings of the Tribunal qua assessment of compensation are set aside and matter is remitted to the Tribunal for assessment of compensation afresh on the basis of materials already on record and additional evidence to be adduced by the parties, in terms indicated hereinabove.

Parties through their counsel are directed to appear before the Tribunal on 08.07.2019. As there is no dispute raised by the insurance company qua its liability to pay compensation, the Tribunal would not call upon the driver and owner of offending vehicle for the purpose of assessment of compensation afresh.

(Rekha Mittal)
Judge

20.05.2019
Mohan Bimbra

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