IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5744 of 2014
Date of decision: 17.09.2019

Reliance General Insurance Company Ltd.

.......Appellant

versus

Rukmudeen and others

......Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Subhash Goyal, Advocate, for the appellants.
Mr. Vinod K. Kanwal, Advocate, for respondents No.1 to 6.

RAMENDRA JAIN, J. (ORAL)

Appellant-Insurance Company, laying challenge to impugned award dated 02.04.2014 of the Motor Accident Claims Tribunal, Kurukshetra (in short 'the Tribunal'), has sought reduction in amount of compensation of ₹26,90,000/-.

Briefly, in the night of 22.09.2013, deceased Babli as a pillion rider on motorcycle bearing registration No.HR-02A-5228 driven by her husband Rukmudeen in a normal speed, when reached in the area of Village Samana-Bahu, offending car bearing registration No.HR-40D-0351, driven by respondent No.7 in a rash and negligent manner, struck against their motorcycle from behind. As a result thereof, Babli and her husband fell down on the road, receiving multiple grievous injuries. Babli succumbed to her injuries at the spot. After causing the accident, respondent No.7 succeeded in fleeing away. FIR No.338 under Sections 279, 337 and 304-A

IPC was registered at Police Station, Butana (Karnal) on the same day.

With these broad submissions, respondents No.1 to 6 filed claim petition under Section 166 of the Motor Vehicles Act before the Tribunal, Kurukshetra, claiming compensation of ₹30,00,000/- along with interest at the rate of 12% per annum from the date of accident till realization.

The Tribunal, after holding trial, vide impugned award, awarded compensation of ₹26,90,000/- along with interest at the rate of 7.5% per annum from the date of filing claim petition till realization.

Learned counsel for the appellant-Insurance Company relying upon judgment in ***Cholamandalam MS General Insurance Co. Ltd. v. Lakhmi Chand and others,*** *2016 ACJ 1346 (P&H) inter alia* contends that income of deceased Babli aged around 35 years at the time of accidental death, in the absence of any definite proof, could not have been taken more than that of a skilled workman, which on the date of accident, as per prescribed wages by the Haryana Government, were ₹5861/- per month.

Refuting above submission, relying upon judgments of Co-ordinate Benches of this Court in ***United India Insurance Co. Ltd. v. Sube Singh and others,*** *FAO No.218 of 2014 decided on 15.01.2014* and ***Bharti AXA General Insurance Co. Ltd. v. Col. Kuldip Singh Deo****, FAO No.4869 of 2017 decided on 18.08.2017*, learned counsel for respondents No.1 to 6 contends that monthly income of deceased Babli as a housewife at ₹9,500/- has rightly been considered by the Tribunal for awarding compensation to the appellants. Therefore, no interference is called for in the impugned award.

Having given thoughtful consideration to the rival submissions, this Court is of the view that ratio laid down in ***Lakhmi Chand's*** case (supra) has to be taken into consideration, being later in time, delivered on 26.02.2015 to the judgment of ***Sube Singh's*** case (supra) delivered on 15.01.2014, relied upon by learned counsel for respondents No.1 to 6.

Facts and circumstances of the judgment in ***Col. Kuldip Singh Deo's*** case (supra) relied upon by learned counsel for respondents No.1 to 6 are not identical to the facts of the present case inasmuch as in that case deceased had expired in the year 2015 i.e. two years after the death of deceased Babli of this case. Thus, income of the deceased assessed at ₹9,000/- per month for the year 2015 cannot be taken into consideration for the decision of this appeal inasmuch as deceased Babli in this case died in accident in the year 2013.

Thus, relying upon ***Lakhmi Chand's*** case (supra), notional income of deceased Babli, a household lady, is taken at ₹5861/- equivalent to skilled workman prevalent at the time of her death. As per settled proposition of law, no deduction has to be made in case of a housewife. At the same time, nothing has to be added towards her future prospects. Considering age of deceased Babli at the time of her death as 38 years, multiplier of 15 has to be applied in view of judgment in ***Sarla Verma v. Delhi Transport Corporation,*** *2009(6) SCC 121.* Applying the same, compensation payable to the claimants comes to ₹5861x12x17=₹10,54,980/- to which ₹70,000/- has to be further added under the conventional heads of funeral expenses, loss of estate and consortium etc. Thus, total compensation payable to the claimants comes to

₹11,24,980, contrary to the compensation of ₹26,90,000/- illegally awarded by the Tribunal.

Hence, impugned award is modified. Compensation awarded to respondents No.1 to 6 – claimants by the Tribunal is reduced to Rs.11,24,980/- from ₹26,90,000/-, which shall be payable by the appellant-Insurance Company along with interest @ 7.5% per annum from the date of filing claim petition till realization. In case, appellant-Insurance Company has already deposited the amount much more than the entitlement of the respondent-claimants, as held above, the Tribunal would recover the excess amount from the respondent-claimants for onward refund of the same to the Insurance Company.

Disposed of accordingly.

(Ramendra Jain)
Judge

September 17, 2019
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No