IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 2.7.2019

1. **FAO No.3315 of 2016(O&M)**

Reliance General Insurance Co. Ltd. …..Appellant

VERSUS

Maya Devi and others .....Respondents

Present: Mr. Sanjeev Kodan, Advocate and
Ms. Priya Deep, Advocate for the appellant.

Mr. Vikash Garg, Advocate for respondents No.1 to 6.

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2. **FAO No.6199 of 2016(O&M)**

Maya Devi and others …..Appellants

VERSUS

Suresh Kumar and others .....Respondents

Present: Mr. Vikash Garg, Advocate for the appellants.

Mr. Subhash Goel, Advocate for respondent No.3.

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.3315 and 6199 of 2016 as these have emerged out of the same award dated 26.04.2016 passed by the Motor Accidents Claims Tribunal, Rewari (in short 'the Tribunal') whereby compensation has been assessed on account of death of Balwan Singh in a motor vehicular accident that took place on 05.05.2014.

FAO No.3315 of 2016 has been filed by the Reliance General Insurance Company Ltd (hereinafter referred to as '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 appeal has been preferred to assail only quantum of compensation assessed by the Tribunal.

<u>FAO Nos.3315 and 6199 of 2016</u>

The Tribunal has awarded compensation of Rs.79,90,988/- detailed hereunder:-

Annual income of the deceased minus income tax	Rs.5,18,616/-
Deduction for personal expenses	$1/4^{th}$
Addition in income for future prospects	30%
Multiplier	13
Loss of dependency	Rs.65,73,450/-
Loss of consortium to the widow	Rs.1,00,000/-
Funeral expenses	Rs.25,000/-
Transportation expenses	Rs.10,000/-
Medical expenses	Rs.12,82,538/-

Counsel for the insurance company would argue that as the deceased was an employee of Haryana Government and his family would be entitle to compassionate assistance under the Haryana Compassionate Assistance to the Dependants of Deceased Government Employees Rules, 2006 (in short 'the Rules of 2006'), benefit available under the said Rules is liable to be deducted in the light of judgment of Hon'ble the Supreme Court **<u>Reliance General Insurance Co. Ltd. Vs. Shashi Sharma and others, 2016(4) RCR (Civil) 569</u>**. Another submission made by counsel is that the Tribunal has wrongly applied cut of $1/4^{th}$ in place of $1/3^{rd}$ for personal and living expenses of the deceased as one of the children of the deceased is married and sons are major. In addition, it is argued that compensation allowed under conventional heads may be modified in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270** and **Sebastiani Lakra and others Vs. National Insurance Co. Ltd. and another, AIR 2018 SC 5034.**

Counsel for the claimants, on the contrary, has supported assessment made by the Tribunal.

So far as assessment of compensation is concerned, the Tribunal has rightly applied multiplier of 13, deduction to the extent of 1/4th and addition in income for future prospects to the tune of 30%. As such, loss of dependency calculated by the Tribunal does not admit of modification. However, compensation allowed under conventional heads is modified to the effect that claimants shall be entitle to Rs.70,000/- in the light of judgments relied upon by counsel for the insurance company. Compensation for medical expenses allowed by the Tribunal is correct and affirmed. Accordingly, compensation payable to the claimants comes to Rs.79,25,988/-.

This brings the Court to deduction qua compassionate assistance under the Rules of 2006. At the outset, it is pertinent to mention that in view of judgment passed by this Court **Kamla Devi and others vs. Sahib Singh and others FAO No. 3064 of 2013 decided on 30.11.2017** affirmed by Hon'ble the Supreme Court, only 50% of the amount available under compassionate assistance is amenable to deduction.

Perusal of para 23 of the award would reveal that as per statement of Satish Kumar, Assistant Pay Clerk from S.P. Office, Narnaul, widow of the deceased shall be entitle to compassionate assistance at the rate of Rs.34,367/- per month till 30.01.2025. The deceased was less than 48 years of age and as such compassionate assistance would be available to the family either for a period of 12 years or till the date of retirement on superannuation, whichever is less. In the instant case, date of retirement would be earlier to the period of 12 years from the date of occurrence, therefore, family would be entitle to compassionate assistance till January 2025. The total amount at the rate of Rs.34,367/- for a period of 129 months comes to Rs.44,33,343/- and 50% thereof is Rs.22,16,672/-. After deducting 22,16,672, compensation payable to the claimants is Rs.57,09,316/- (Rs.79,25,988/- - Rs.22,16,672/-). Accordingly, compensation allowed by the Tribunal is reduced to the extent of Rs.22,81,672/- (Rs.79,90,988/- - Rs.57,09,316/-). The insurance company shall be entitle to recover the excess amount, if already paid, to the claimants by filing an appropriate application before the Tribunal.

In view of what has been discussed hereinbefore, appeal preferred by the insurance company is partly allowed in the aforesaid terms. As a natural corollary, appeal filed by the claimants is dismissed.

JULY 2, 2019 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no
Whether reportable : yes/no