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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

X-OBJC-204-CII-2016 in/and
FAO-3323-2016(O&M)
Date of Decision: September 19, 2019

Reliance General Insurance Company Ltd.
.....Appellant

Versus

Amandeep Kaur and others
......Respondents

CORAM: HON'BLE MS.JUSTICE NIRMALJIT KAUR

Present: Mr.Sanjeev Kodan, Advocate
for the appellant.

Mr.Vipul, Advocate for
Mr.Nitin Mittal, Advocate
for respondent Nos.1 to 5-Cross-objectors.

Mr.Sunil K.Sahore, Advocate
for respondent Nos.8 and 9.

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NIRMALJIT KAUR, J. (ORAL)

Learned counsel for the appellant-Insurance Company while praying for reducing the compensation already awarded raised the following arguments:

(i) There is contributory negligence as the deceased was crossing the road, which is a Highway and, therefore, the amount should be reduced accordingly. The onus was upon the deceased that he crossed the track very carefully in case there was no overhead or underground pedestrian crossing;

(ii) widow of the deceased is in receipt of service benefits as well as job on compassionate grounds and, therefore, the amount has to be reduced;

(iii) The income has been assessed as ₹34,559/- per month but no deduction towards the income tax has been made; and

(iv) Only ₹70,000/- should have been granted under the head Consortium in view of the judgment of Hon'ble Apex Court in **National Insurance Company Limited vs Pranay Sethi and others**, 2017(16) SCC 680, whereas an amount of ₹4,30,000/- has been awarded.

The first argument of learned counsel for the appellant has no merit. As per the site plan, the deceased was walking on the left side of the road and the accident also took place on Point 'A', which is on the extreme corner of the road. Thus, the deceased was not crossing the road and hence, no negligence can be attributed to the deceased. It is also not the plea of the appellant-Insurance Company that the deceased was on the wrong side of the road. Therefore, the deceased cannot be made liable for any contributory negligence.

The second argument too has no merit. The widow was duly cross-examined. She specifically stated that she was getting pension but has not received any service benefits or job on compassionate ground. Even the employee from the office of Commissioner of Police, Ludhiana, who appeared as PW3, verified and confirmed that widow has not received any service benefits. Hence, no amount can be deducted on this ground also.

However, there is merit in the third argument that income tax should have been deducted from the income. Admittedly, the income of the deceased was ₹34,559/- per month and, therefore, ₹16,471/- (10% on the Income from ₹2,50,000.00 to ₹5,00,000.00) was required to be deducted towards income tax.

The fourth argument that the amount towards consortium is on the higher side is also a valid argument in view of the above cited judgment in **National Insurance Company Limited vs Pranay Sethi and others**, (supra). Only ₹70,000/- should have been awarded under this head, whereas, ₹4,30,000/- granted. The excess amount of ₹3,60,000/- is accordingly, deducted.

Learned counsel for the respondents, at this stage very fairly states that although he is entitled to ₹40,000/- per head in view of the judgment rendered in the case of **Megma General Insurance Co.Ltd. vs Nanu Ram alias Chuhru Ram and others** 2018(4) RCR (Civil) 333, but he shall not press the same.

In view of the above, both, the appeal as well as cross-objections are disposed of by modifying the Award, as per the calculation provided hereunder:-

In view of the above, the following amount is calculated as per the calculations provided hereunder:

Head	Amount
Monthly Income	₹34,559.00
Annual income	₹4,14,708.00 (₹34,559.00 x 12)
Income tax (10%)	₹16,471.00
Balance income	₹3,98,237.00
Future prospects @ 30%	₹1,19,471.00
Total Annual income	₹5,17,708.00
1/4th deduction as personal expenses	₹1,29,427.00
Annual Dependency	₹3,88,281.00
Multiplier	14
Conventional Heads	₹70,000.00
Total compensation	₹55,05,934.00(₹388281.00x14+ ₹70,000)

Vide an interim order dated 28.07.2016 of this Court, disbursement of compensation beyond 50% of the amount awarded by the learned Tribunal was stayed. Now as per the above calculation, the balance amount be deposited within two months alongwith the interest as already ordered by the Tribunal. In case the said amount is not deposited within two months from the date of receipt of a copy of this order, the same shall be deposited alongwith interest @ 12% from the expiry of the said two months.

Disposed of accordingly.

September 19, 2019 **(NIRMALJIT KAUR)**
meenuss **JUDGE**

1. Whether speaking/reasoned ? Yes/No
2. Whether reportable ? Yes/No