

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

**XOBJC No.47-CII of 2017 in/and
FAO No.4181 of 2016(O&M)
Date of Decision: 19.08.2019**

Reliance General Insurance Co. Ltd.Appellant

Versus

Daya Devi and othersRespondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

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

Mr. Rajat Garg, Advocate for
Mr. Aditya Jain, Advocate
for the cross-objectors/respondents No.1 and 2.

RAJ MOHAN SINGH, J.

[1]. Vide this common order, XOBJC No.47-CII of 2017 and
FAO No.4181 of 2016 are being disposed of.

[2]. Claim petition was preferred by the
claimants/respondents No.1 and 2 on account of death of their
son Manesh Kumar in a road accident on 12.11.2014. The
deceased was sitting on kachha portion of the road along with
his cousin Harender Kumar when the offending car driven by
respondent No.3 came in a rash and negligent manner and hit
the deceased and one another vehicle. The deceased suffered

fatal injuries on his head and other parts of the body. Harender Kumar took the deceased to the hospital where he was declared brought dead.

[3]. At the time of accident, the deceased was 21 years of age. He was serving in Vodafone office, Haily Mandi. His income was assessed to be Rs.12,500/- per month. Motor Accident Claims Tribunal, Gurgaon (for short 'the Tribunal') while deducting an amount of Rs.2500/- towards conveyance allowance, held the income of the deceased to be Rs.10,000/- per month to which addition of 50% was applied towards future prospects. Thereafter, 50% of the income was deducted towards personal expenses of the deceased being a bachelor. Multiplier of 18 was applied and loss of dependency was calculated to be Rs.16,20,000/-. Again an amount of Rs.1,00,000/- towards loss of love and affection and an amount of Rs.25,000/- towards funeral expenses were added, thereby making the total entitlement of the appellants to the tune of Rs.17,45,000/-. Insurance Company was held liable to pay the aforesaid amount along with costs.

[4]. Insurance Company has filed the appeal against the award made by the Tribunal and the claimants have filed the cross-objections for enhancement of compensation.

[5]. I have considered the arguments raised by learned

counsel for the parties.

[6]. It is true that as per salary certificate Ex.P5, monthly salary of the deceased was shown to be Rs.12,500/-. The break up of the salary was in two parts i.e. basic salary and conveyance allowance. An amount of Rs.2500/- was shown to be conveyance allowance.

[7]. Learned counsel for the appellant vehemently submitted that the conveyance amount has to be deducted while computing the total monthly salary of the deceased and future prospects to the tune of 40% should have been awarded instead of 50% as the deceased was not a Government employee.

[8]. On the other hand, learned counsel for the cross-objectors/respondents No.1 and 2 submitted that since deduction to the tune of 50% towards personal expenses and addition of 50% towards future prospects was made while assessing the monthly income of the deceased, therefore, deduction of an amount of Rs.2500/- towards conveyance allowance cannot be made as the deduction to the tune of 50% towards personal expenses would suffice to serve and include expenses towards conveyance as well.

[9]. I find that the aforesaid submission of learned counsel for the cross-objectors/respondents No.1 and 2 is worth

acceptance. Deduction of 50% from the total monthly income of the deceased would cover all such expenses which would have been incurred by the deceased. During course of his employment, conveyance was one of the event which the deceased used to meet daily. However, keeping in view the employment of the deceased with Vodafone company, future prospects to the tune of 40% were applicable.

[10]. In view of aforesaid position, necessary calculations are required to be re-visited. Monthly income of the deceased has to be held as Rs.12,500/- to which 40% addition can be applied towards future prospects. If the aforesaid calculation is made, monthly income of the deceased would come out to be Rs.17,500/- (12,500+5000=17,500). 50% deduction towards personal expenses of the deceased would slash down the monthly income of the deceased to the tune of Rs.8750/- i.e. Rs.1,05,000/- per annum. The deceased was 21 years of age at the time of accident, therefore, in view of ratio laid down **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) Recent Civil Reports (Civil) 77,** multiplier of 18 would be just and appropriate and after applying the same, the amount of compensation would come out to be Rs.18,90,000/-. In view of ratio laid down in **National Insurance Company Limited Vs. Pranay Sethi and others, 2017 SCC**

1270, an amount of Rs.15,000/- is to be added towards funeral expenses and an amount of Rs.15,000/- is to be added towards loss of estate. In this way, total amount of compensation would come out to be Rs.19,20,000/- (18,90,000 + 15,000 + 15,000 = 19,20,000).

[11]. The Tribunal has already awarded an amount of Rs.17,45,000/-, therefore, the aforesaid amount has to be deducted and after deducting the same, the enhanced amount of compensation would come out to be Rs.1,75,000/- (19,20,000-17,45,000=1,75,000).

[12]. The enhanced amount of compensation i.e. Rs.1,75,000/- shall carry interest @ 7.5% per annum from the date of filing of claim petition till final realisation of the amount. The liability to pay the enhanced amount of compensation shall remain the same as ordered by the Tribunal.

[13]. In view of aforesaid, the appeal and cross-objections are disposed of.

19.08.2019
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No