IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4912 of 2016 (O&M)
Date of decision: 31.05.2019

Shriram General Insurance Co. Ltd. ... Appellant

Versus

Smt. Wakila and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Punit Jain, Advocate for the appellant.
None for the claimants.
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REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against award dated 03.05.2016 whereby compensation has been assessed on account of death of Ikram in a motor vehicular accident that took place on 03.04.2015.

Counsel for the insurance company would inform that the appeal has been filed to challenge quantum of compensation assessed by the Tribunal.

The Tribunal awarded Rs.17,58,854/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.5812/-
2. Addition in income for future prospects	50%
3. Multiplier	17
4. Deduction for personal expenses	1/4th
5. Loss of dependency	Rs.13,33,854/-
6. Expenses on funeral	Rs.25,000/-
7. Loss of estate	Rs.1,00,000/-
8. Loss of expectation of life	Rs.1,00,000/-

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9. Loss of consortium Rs.1,00,000/-

10. Loss of love and affection Rs.1,00,000/-

Counsel for the appellant would urge that benefit of future prospects should be 40% and compensation allowed under conventional heads may be restricted to Rs.70,000/-. In support of his contention, he has relied upon judgments of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270** and **Sebastiani Lakra and others vs. National Insurance Company Limited and another AIR 2018 SC 5034**.

The Tribunal has assessed income of the deceased at Rs.5812/- per month. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time coupled with that deceased left behind a large family to look after, income of the deceased is assessed at Rs.7000/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.14,99,400/- [(7000 x 12 x 17) + (40% future prospects) – (1/4th deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.70,000/-, detailed hereunder:-

1. Loss of consortium Rs.40,000/-
2. Loss of estate Rs.15,000/-
3. Funeral expenses Rs.15,000/-

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Total compensation is Rs.15,69,400/- and compensation assessed by the Tribunal is reduced to the extent of Rs.1,89,454/- (17,58,854 - 15,69,400) . The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

The Tribunal has allowed interest @ 9% per annum in case the compensation is not deposited within two months but the interest would be @ 7.5% if compensation is paid within two months. The penal clause with regard to payment of interest on failure to deposit compensation within two months cannot be allowed to sustain, in the light of judgment of Hon'ble the Supreme Court **National Insurance Co. Ltd. Vs. Keshav Bahadur and ors., 2004(2) RCR (Civil) 99.** As such, interest @ 7.5% per annum shall be payable on compensation found payable by this Court, from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

31.05.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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

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