IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

-.-

Date of decision: 28.05.2019

FAO 67 of 2015 (O&M)

National Insurance Company Limited *........Appellant*

Versus

Neelu Jha and others *.......Respondents*

FAO 7476 of 2016 (O&M)

Neelu Jha and others *.......Appellants*

Versus

Salim and others *.......Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Deepak Suri, Advocate and
Mr. Neeraj Khanna, Advocate
for the insurance company

Mr. Subhash Rana, Advocate for
Mr. Harish Nain,Advocate
for the claimants

-.-

Rekha Mittal, J. (Oral)

This order will dispose of aforesaid appeals as these have emerged out of the same award dated 22.09.2014 passed by the Motor Accidents Claims Tribunal, Sonepat (in short, 'the Tribunal') whereby compensation has been assessed on account of death of Rakesh Kumar in a motor vehicular accident that took place on 20.12.2011.

FAO No. 67 of 2015 has been filed by National Insurance Company Limited (hereinafter referred to as 'the insurance company') whereas FAO 7476 of 2016 has been filed by the claimants seeking enhancement of compensation.

Counsel for the insurance company would inform that as the appeal against respondent No. 7 has been dismissed vide order dated 14.02.2019 passed by this Court, appeal survives only qua quantum of compensation assessed by the Tribunal.

The Tribunal awarded Rs.23,76,400/-, detailed hereunder:-

-Monthly income of the deceased	Rs.12,000/-
-Addition in income for future prospects	30%
-Deduction for personal expenses	1/4th
-Multiplier	16
-Loss of dependency	Rs.22,46,400/-
-Loss of consortium	Rs.1,00,000/-
-Funeral expenses	Rs.25,000/-
-Loss of estate	Rs.5,000/-

Counsel for the insurance company would argue that income of deceased assessed by the Tribunal is on higher side and needs reduction. Compensation allowed under conventional heads may be restricted to Rs.70,000.00.

Counsel representing the claimants, on the contrary, would argue that income of the deceased assessed by the Tribunal needs enhancement. The claimants are entitle to addition in income for future prospects at the rate of 50% as against 30% allowed by the Tribunal.

The plea of claimants is that the deceased was working as Supervisor with Manohar Filaments Private Limited at salary of Rs.18,000/-

per month. They examined Mahipal Singh (PW2) to prove employment and income of deceased and the said witness produced documents Ex.P1 to Ex.P8. Perusal of copies of the documents supplied during the course of hearing would reveal that as per certificate Ex.P1, the deceased joined service in the aforesaid company on 15.12.2010 and his gross salary was Rs.12,000/- per month. Taking into consideration documents produced by the witness, the Tribunal has rightly assessed income of the deceased at Rs.12,000.00 per month.

The deceased joined service on 15.12.2010 and passed away on 20.12.2011. In the given circumstances, admissible increase for future prospects would be 40%. Deduction for personal expenses allowed by the Tribunal is correct and affirmed and so also multiplier to the tune of 16. As such, loss of dependency is calculated at Rs.24,19,000/- (Rs.23,04,000/- *i.e.* 12,000 x 12 x 16 + Rs.9,21,600/- (40% addition) – Rs.8,06,600/- (1/4th deduction)).

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.70,000.00 (Rs.40,000.00 for loss of consortium, Rs.15,000.00 each qua loss to estate and funeral expenses), in the light of judgments of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SCC 1270*** and ***Sebastiani Lakra and others vs. National Insurance Company Limited and another, 2018 AIR (SC) 5034.***

Total compensation is Rs.24,89,000/- and additional amount is Rs.1,12,600/- payable with interest at the rate of 7.5% per annum from the date of petition till realization except for the period of delay of 640 days in filing the appeal.

For the foregoing reasons, both the appeals stand disposed of in the aforesaid terms.

(Rekha Mittal)
Judge

28.05.2019
Mohan Bimbra

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