IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 6634 of 2016 (O&M) and
Cross objection No. 148 CII of 2017
Date of decision: 11.09.2019

New India Assurance Company Limited ....*Appellant*

Versus

Parvati Devi and others ....*Respondents*

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr. Vinod Gupta, Advocate
for the appellant/ insurance company

Ms Amrita Nagpal, Advocate
for the claimants/cross objectors

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Rekha Mittal, J. (Oral)

This order will dispose of aforesaid appeal as well as cross objections as these have emerged out of the same award dated 29.08.2016 passed by the Motor Accidents Claims Tribunal, Ludhiana.

FAO No. 6634 of 2016 has been preferred by New India Assurance Company Limited (hereinafter referred to as 'the insurance company') and cross objections No. 148-CII of 2017 have been filed by the claimants seeking enhancement of compensation.

Counsel for the insurance company would inform that the appeal has been filed to assail only quantum of compensation.

The Tribunal awarded Rs.11,48,200/-, detailed hereunder:-

-Monthly income of the deceased Rs.6,000/-

-Addition in income for future prospects	30%
-Deduction for personal expenses	1/3rd
-Multiplier	18
-Loss of dependency	Rs.11,23,200/-
-Funeral expenses	Rs.25,000/-

The sole submission made by counsel for the insurance company is that since the claim application has been preferred by the parents and minor sister of the deceased, admissible deduction for personal expenses of the deceased should be 50%. For this purpose, reference has made to judgment of Hon'ble the Supreme Court ***Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil)*** *77*.

Counsel for the cross objectors, on the contrary, would urge that income of deceased assessed by the Tribunal is on lower side and needs enhancement.

The plea of claimants is that deceased aged 18 years was working as Tailor with M/s Vikram Knitwears, Ludhiana thereby earning Rs.10,000/- per month. In addition to testimony of Bharat Ram, father of deceased, they examined Raman Kumar (PW4), proprietor of M/s Vikram Knitwear, Ludhiana to prove employment and income of the deceased. However, Raman Kumar (PW4) did not produce any documentary evidence except certificate Ex.PW4/1 with regard to employment and income of deceased. The Tribunal has not rejected plea of the claimants that the deceased was a Tailor. Taking a clue from notification issued by the State of Punjab fixing minimum wage, income of the deceased is assessed at Rs.8,000/- per month. The claimants shall be entitle to addition in income for future prospects at the rate of 40%. Multiplier applied by the Tribunal is correct and affirmed. However, since the claim application has been filed by parents and minor sister of deceased, admissible deduction for personal expenses would be 50%. In this manner, loss of dependency is Rs.12,09,600/-[Rs.17,28,000 i.e. 8,000 x 12 x 18 + Rs.6,91,200 (40% addition in income – Rs.12,09,600 (50% deduction)]

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.30,000.00 (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.***

In view of the above, total compensation is Rs.12,39,600/- and additional amount is Rs.91,400/- (12,39,600 - 11,48,200), payable with interest @ 7.5% per annum from the date of petition till realization to mother of the deceased, to be invested in fixed deposit for a period of two years.

For the foregoing reasons, the appeal as well as cross objections stand disposed of, in the aforesaid terms.

(Rekha Mittal)
Judge

11.09.2019
Mohan Bimbra

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