IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

250 Date of decision: 22.10.2019

FAO No.6751 of 2016 (O&M)

Oriental Insurance Co. Ltd. ... Appellant

Versus

Soma and ors. ... Respondents

FAO No.2989 of 2017 (O&M)

Soma and ors. ... Appellants

Versus

Kuldeep Singh and ors. ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ashish Yadav, Advocate for the insurance company.
Mr. Parveen Chauhan, Advocate for the claimants.

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.6751 of 2016 and 2989 of 2017 as these have emerged out of the same award dated 24.08.2016 passed by the Motor Accidents Claims Tribunal, Rupnagar whereby compensation has been assessed on account of death of Dharma in a motor vehicular accident that took place on 09.06.2015.

FAO No.6751 of 2016 has been filed by Oriental Insurance Co. Ltd. (hereinafter referred to as 'the insurance company') whereas the other appeal has been preferred by the claimants seeking enhancement of compensation.

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

The Tribunal awarded Rs.17,82,360/- (rounded off to Rs.17,82,400/-), detailed hereunder:-

Annual income of the deceased	Rs.86,520/-
Addition in income for future prospects	50%
Multiplier	16
Deduction for personal expenses	1/4th
Loss of dependency	Rs.15,57,360/-
Expenses on funeral	Rs.25,000/-
Loss of consortium	Rs.1,00,000/-

Loss of care and guidance Rs.1,00,000/-

Counsel for the insurance company would argue that income of the deceased assessed by the Tribunal is on higher side and needs reduction. Addition in income for future prospects and compensation allowed under conventional heads may be modified in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**.

Counsel representing the respondents/claimants, on the contrary, has supported findings of the Tribunal with regard to assessment of income of the deceased.

The plea of claimants is that deceased was working as waiter/servant at Saini Dhaba, GT Road, Ropar thereby earning Rs.12,000/- per month. They examined Satish Kumar PW2 to prove employment and income of the deceased. However, the Tribunal refused to rely upon his testimony for want of any documentary evidence with regard to employment much less income of the deceased. The accident in question took place on 09.06.2015. When the case is examined in the light of notification issued by the State of Punjab fixing minimum wage at the relevant, income of the deceased is assessed at Rs.7000/- per month. Respondents/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.14,11,200/- [(7000 x 12 x 16) + (40% future prospects) – (1/4th deduction for personal expenses)].

Under conventional heads, compensation allowed 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/-

Total compensation is Rs.14,81,200/- and compensation assessed by the Tribunal is reduced to the extent of Rs.3,01,200/- (17,82,400 - 14,81,200). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal. All miscellaneous applications are deemed to have been disposed of.

The appeals are disposed of in the aforesaid terms.

22.10.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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