

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-8023-2015 (O&M)

Date of decision: 27.11.2019

Reliance General Insurance Company Ltd.

..... Appellant

Versus

Smt. Anita Devi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

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

Mr. KS Dhanora, Advocate for respondents No. 1 to 6.

RAMENDRA JAIN, J. (ORAL)

Through this appeal, appellant-Insurance Company sought reduction of compensation to the tune of ₹10,86,488/- awarded in excess to widow, minor children and mother (respondent-claimants No. 1 to 6) of deceased-Manoj Kumar @ Madan Ram, aged around 34 years, a loader/palledar, vide impugned Award dated 31.08.2015 of the Motor Accident Claims Tribunal, Kurukshetra (for short 'the Tribunal'), in their claim petition under Sections 166 and 140 of the Motor Vehicles Act, 1988.

Relying upon judgment of this Court in **FAO Nos. 4712 and 8487-2015, United India Insurance Co. Ltd. Vs. Smt. Neelam and others**, decided on 21.09.2018, learned counsel for appellant-Insurance Company contends that learned Tribunal has wrongly taken monthly income of deceased at ₹8100/- at DC rates, ignoring the minimum wages prescribed by the Government, at the relevant time. Taking into account age of deceased-Manoj Kumar @ Madan Ram, 40% was to be added towards

added 50%. That apart, ₹70,000/- ought to have been granted under the conventional heads in accordance with the principles laid down in **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009**, whereas learned Tribunal illegally awarded ₹5,25,000/- under the said head.

Refuting the above submissions and placing reliance upon order dated 12.09.2019, in SLP (Civil) Diary No. 29908/2019 **'Bimla Devi and another Vs. National Insurance Co. Ltd.,** learned counsel for respondent-claimants No. 1 to 6, submits that in a similar case, the Apex Court has issued notice to the Insurance Company, in an appeal filed by the claimants. Thus, income of the deceased at ₹8100/- per month considered by the learned Tribunal, on the basis of DC rate, is not liable to be disturbed.

Having given thoughtful consideration to the rival submissions, this Court finds this appeal merits acceptance, for the reasons to follow:

In the order dated 12.09.2019 of the Apex Court, relied upon by learned counsel for respondent-claimants No. 1 to 6, only notice of motion has been issued to the Insurance Company. Therefore, it being not a final verdict of Apex Court, does not extend any benefit to respondent-claimants No. 1 to 6.

Contrary to it, in a similar situation, a co-ordinate Bench of this Court in **Smt. Neelam's case (supra)**, has held that minimum wages fixed by the State has to be taken into consideration, ignoring DC rates which are meant for payment to employees in different departments out of contingency funds. The date of death of deceased in the instant case was 25.06.2014.

On that day, prescribed minimum wages of State of Haryana were ₹5547/-

per month. Therefore, income of the deceased is taken at ₹5547/- per month, rejecting his income at ₹8100/- per month.

That apart, under conventional heads, according to **Pranay Sethi's case (supra)**, respondent-claimants No. 1 to 6 are entitled to maximum of ₹70,000/-. Therefore, the amount of ₹5,25,000/- awarded by the Tribunal, has to be reduced to ₹70,000/-.

As per calculations furnished by learned counsel for the appellant-Insurance Company, which is taken on record Mark 'A', duly signed by him, the total amount of compensation payable to respondent-claimants No. 1 to 6, comes to ₹11,88,208/- against the awarded amount of ₹22,74,696/- by the learned Tribunal. Hence, it is apparent that respondent-claimants No. 1 to 6 have been awarded ₹10,86,488/- in excess, as compensation.

It is pertinent to mention here that payment of 20% of the compensation to the claimants was stayed by a co-ordinate Bench of this Court vide order dated 02.12.2016, while issuing notice of motion.

In view of discussion made above, the instant appeal is accepted. The excess amount, if any, paid to respondent-claimants No. 1 to 6, is ordered to be recovered from them along with proportionate interest, in accordance with law.

Disposed of.

November 27, 2019

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No