IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

240 FAO-1461-2017 (O&M)

Date of decision: 27.09.2019

NEW INDIA ASSURANCE CO LTD ... Appellant

Versus

SURINDER SHARMA AND ORS. ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Vinod Gupta, Advocate and
Mr. Mayank Gupta, Advocate for the appellant.
Mr. Sahil S. Chauhan, Advocate for respondents No.1 to 3.

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REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against award dated 07.12.2016 passed by the Motor Accidents Claims Tribunal, Karnal whereby compensation has been assessed on account of death of Munish that took place on 01.04.2015.

The Tribunal awarded Rs.16,73,720/-, detailed hereunder:-

Monthly income of the deceased	Rs.9560/-
Addition in income for future prospects	50%
Multiplier	18
Deduction for personal expenses	50%
Loss of dependency	Rs.15,48,720/-
Expenses on funeral	Rs.25,000/-
Loss of love and affection	Rs.1,00,000/-

Counsel for the appellant would argue that the Tribunal has assessed income of the deceased at Rs.9560/- on the basis of Deputy Commissioner's rates but minimum wage of an unskilled worker was approximately Rs.6000/- per month. Addition in income for future prospects and compensation 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 for respondents No.1 to 3, on the other hand, would submit that income of the deceased may be assessed on the basis of plea of the claimants duly supported by Surinder Sharma, father of the deceased and Deep Sharma PW4 a representative of Welcome Shoes Company, New Delhi.

The plea of claimants is that deceased was working as supervisor with Welcome Shoes Pvt. Ltd., Delhi at salary of Rs.22,000/- per month. They placed on record copies of documents mark G to J with regard to educational qualification of Munish Sharma. Perusal of documents makes it evident that deceased completed three years Diploma in Electrical Engineering from Haryana State Board of Technical Education in December, 2010 and he was student of Janta Polytechnic Butana (Sonepat).

Deep Sharma produced salary certificate of Munish Sharma for the month of September, 2015 marked as Ex.PW4/A and forwarding memo produced by him is Ex.PW4/B. The witness was cross examined at length but nothing material and tangible has been brought-forth to discard or disbelieve his testimony with regard to employment and income of the deceased while working as supervisor with the aforesaid concern. Perusal of salary certificate Ex.PW4/A further reveals that the same makes reference to Employee Code No.10014 and PF No.DLCPM17625/EXCL. The insurance company did not adduce any evidence to rebut testimony of Deep Sharma and the salary certificate Ex.PW4/A. Taking into consideration educational qualification of the deceased coupled with evidence adduced by Deep Sharma, income of the deceased is assessed at Rs.22,000/- 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.33,26,400/- [(22,000 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitle to Rs.30,000/-, detailed hereunder:-

1. Expenses on last rites	Rs.15,000/-
2. Loss of estate	Rs.15,000/-

Total compensation is Rs.33,56,400/- and additional amount is Rs.16,82,680/- (33,56,400 - 16,73,720), payable with interest @ 7.5% per annum from the date of petition till realization, to mother of the deceased.

The appeal is disposed of in the aforesaid terms.

27.09.2019 **(REKHA MITTAL)**

ashok **JUDGE**

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No