IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No.232

FAO-878-2015 (O&M)
Date of decision: 03.04.2019

Bajaj Allianz General Insurance Company Limited ....Appellant

versus

Ganga Devi and others ....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Ashwani Talwar, Advocate and
Ms. Priya Deep, Advocate
for the appellant.

Mr. Vivek Suri, Advocate
for respondents No.1 to 6.

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DEEPAK SIBAL, J. (Oral)

The present appeal has been preferred by the Insurance Company seeking reduction in the compensation awarded to the respondents/claimants by the Motor Accident Claims Tribunal, Panchkula (for short – the Tribunal).

The facts, in brief, which are required to be noticed for adjudicating upon the present appeal are that on 08.08.2012 at about 8.00 p.m. Ramveer (since deceased) was going on his motorcycle with his friend Ravinder Singh @ Ravi @ RB sitting as a pillion rider. His brother Dhayan Singh was going with them on his own Activa scooter. At about 10.50 p.m., when they reached on the roundabout of village Nada Chowki, Tehsil and District Panchkula, a Tata Truck bearing registration No.AP-07TB-6969 (for short – the offending vehicle) hit Ramveer's motorcycle as a result of which both Ramveer and Ravinder Singh died. Respondents No.1 to 6 filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 in which petition, the Tribunal, after concluding that the offending vehicle was being driven in a rash and negligent manner, went on to assess the payable compensation to be paid by the Insurance Company as also the owner and driver of the offending vehicle jointly and severely.

Learned counsel for the appellant-Insurance Company submitted that the income of the deceased had wrongly been assessed as there was no evidence on the record with regard to the same. Relying on the judgment of the Hon'ble Apex Court in **National Insurance Company Limited vs. Pranay Sethi and others** – **(2017) 16 SCC 680**, learned counsel for the appellant further submitted that instead of 50% future prospects by the Tribunal should have been granted @ 40% of the assessed income of the deceased and that Rs.70,000/- under the conventional heads should have been granted instead of Rs.1,25,000/-. On dependency, learned counsel for the appellant-Insurance Company very fairly states that since admittedly there were six dependents on the deceased, a deduction of 1/4th to his assessed income instead of 1/3rd should have been applied.

Learned counsel for the respondents/claimants justifies the compensation awarded by the Tribunal.

Through the statement of PW-2 Ganga Devi, it was proved that the deceased was a Milk vendor as also a distributor of Milk products of several companies including Reliance Diary Food Limited, Vita etc. Invoices to prove supply of diary products of Reliance Diary Food Limited by the deceased were produced as Ex.P4 to Ex.P12 and the contents thereof were also proved. That being so, the assessment of the monthly income of the deceased by the Tribunal to be Rs.15,000/- per month in a accident which took place in the year 2012 is found to be just and reasonable warranting no interference.

So far as the issue with regard to payment of compensation assessed under the conventional heads and grant of future prospects is concerned, the same is covered in favour of the appellant in **Pranay Sethi's case (supra)**. Accordingly, the payment under conventional heads is ordered to be reduced from Rs.1,25,000/- to Rs.70,000/-. It is further directed that the future prospects @ 40% instead of 50% be applied to the assessed income of the deceased.

In view of the fair stand taken by the learned counsel for the appellant, deduction of $1/4^{th}$ to the assessed income of the deceased and not $1/3^{rd}$ is ordered to be applied.

No other point was urged.

The present appeal is allowed in the above terms.

No costs.

(DEEPAK SIBAL)
JUDGE

April 03, 2019
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No