In the High Court of Punjab and Haryana at Chandigarh

FAO- 7748 of 2016(O&M)
Date of Decision: 10.5.2019

Oriental Insurance Company Limited

---Appellant

versus

Desa Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. R.C.Gupta, Advocate
for the appellant

Mr. C.M.Munjal, Advocate,
for respondents No. 1 and 2

Mr. Jatinder Pal Singh, Advocate
for respondent No. 4

***

Rekha Mittal, J.

The present appeal directs challenge against award dated 29.8.2016 passed by the Motor Accidents Claims Tribunal, Ferozepur (in short "the Tribunal") whereby compensation has been assessed on account of death of Piara Singh in a motor vehicular accident that took place on 5.10.2014.

Counsel for the insurance company, at the outset, would inform that the appeal has been preferred to assail quantum of compensation and findings of the Tribunal on the question of driving licence. It is argued that the Tribunal has allowed addition in income for future prospects @ 50% as against 40% admissible in the light of judgment of Hon'ble the Supreme

Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270.**

With regard to driving licence, it is urged that driving licence was issued by an authority at Nagaland but there is no evidence to prove that driver was resident of State of Nagaland at any point of time.

Counsel representing respondents No. 1, 2 and 4 have supported findings of the Tribunal both with regard to compensation as well as on the question of driving licence.

The Tribunal awarded Rs. 11,96,780/-, detailed hereunder:-

Monthly income	Rs. 5695/-
Addition in income for future prospects	50%
Deduction for personal expenses	1/3rd
Multiplier	17
Loss of dependency	Rs. 11,61,780/-
Funeral expenses	Rs. 25,000/-
Loss of estate	Rs. 10,000/-

Addition in income for future prospects would be 40% in the light of judgment in **Pranay Sethi and others' case (supra)** and as such, loss of dependency is calculated at Rs. 10,84,328/- [5695 x12x17= 11,61,780 + 4,64,712(40%)=16,26,492 -5,42,164 (1/3)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs. 30,000/- in the light of judgments of Hon'ble the Supreme Court **Pranay Sethi and others' case (supra)** and **Sebastiani Lakra and others vs. National Insurance Company Limited and another AIR 2018 SC 5034,** detailed hereunder:-

Expenses on funeral Rs. 15,000/-

Loss of estate	Rs. 15,000/-

Total compensation is Rs. 11,14,328/- and compensation allowed by the Tribunal is reduced to the extent of Rs.82,452/- (11,96,780-11,14,328). The insurance company shall be entitle to recover the excess amount, if paid, by filing an appropriate application before the Tribunal.

This brings the court to driving licence possessed by the driver. The insurance company did not adduce any evidence to substantiate its plea that licence possessed by the driver was not valid or effective. As such, there is no merit in contention of the insurance company that either driver was not possessing a valid licence or the insured is guilty of breaching terms and conditions of policy.

No other point has been raised.

In view of what has been discussed hereinabove, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

10.5.2019
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No