IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

239 Date of decision: 29.01.2019
XOBJC-13-CII of 2018 (O&M) in/and
FAO No.3099 of 2017 (O&M)

National Insurance Co. Ltd. ... Appellant

Versus

Bala Devi and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Deepak Suri, Advocate for the appellant.
Mr. Rakesh Dhiman, Advocate for respondent No.1.
Mr. R.K. Girdhwal, Advocate for respondent No.2.
Mr. Indresh Goel, Addl. A.G., Haryana for respondent No.3.
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REKHA MITTAL, J. (Oral)

This order will dispose of FAO No.3099 of 2017 and Cross Objections No.13-CII of 2018 as these have emerged out of the same award dated 25.10.2016 passed by the Motor Accidents Claims Tribunal, Jhajjar whereby compensation has been assessed on account of death of Sandeep Kumar in a motor vehicular accident that took place on 23.12.2015.

FAO No.3099 of 2017 has been filed by the insurance company whereas the cross objections have been preferred by the claimant seeking enhancement of compensation.

Counsel for the insurance company would inform that the appeal has been preferred primarily to assail quantum of compensation assessed by the Tribunal.

CM No.10229-CII of 2017 in FAO No.3099 of 2017

Heard.

Allowed as prayed for. Delay of 77 days in filing the appeal stands condoned.

XOBJC-13-CII of 2018 in/and FAO No.3099 of 2017

The Tribunal has awarded compensation of Rs.60,59,417/-, detailed hereunder:-

1. Annual income after deducting income tax @ 10%	Rs.4,45,142/-
2. Addition in income for future prospects	50%
3. Multiplier	18

4. Deduction for personal expenses	50%
5. Loss of dependency	Rs.60,09,417/-
6. Expenses on funeral	Rs.25,000/-
7. Loss of love and affection	Rs.25,000/-

Reply on behalf of respondent No.3, filed in the Court is taken on record.

The sole submission made by counsel for the insurance company is that income tax is liable to be deducted by taking into consideration monthly salary plus addition of 50% and accordingly liability to pay compensation may be reduced.

Counsel for the claimant, on the contrary, has supported findings of the Tribunal with regard to assessment of loss of dependency.

The plea of insurance company that income tax should be deducted on monthly salary plus addition towards future prospects is not tenable when examined in the light of conclusions drawn by Hon'ble the Supreme Court in para 64 of the judgment in **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**, particularly sub-para (iii) of para 64 that reads as under:-

> While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.

The concluding line in aforesaid paragraph makes it evident that addition shall be made to the actual salary which would be worked out after deducting liability to pay tax. That being so, contention raised by the insurance company is misconceived and accordingly rejected.

Counsel for the claimant has not advanced any argument much less meaningful in order to substantiate plea of the claimant/cross objector for allowing compensation more than what has been assessed by the Tribunal. As a matter of fact, the Tribunal has awarded a sum of Rs.50,000/- under conventional heads as against Rs.30,000/- admissible in the light of judgments of Hon'ble the Supreme Court **Pranay Sethi and others's case (supra)** and **Sebastiani Lakra and others vs. National Insurance Company Limited and another AIR 2018 SC 5034.** However, keeping in view the fact that there would be difference only of Rs.20,000/-, compensation assessed by the Tribunal is affirmed.

In view of what has been discussed hereinabove, finding no merit, the appeal filed by the insurance company and cross objections preferred by the claimant are dismissed, leaving the parties to bear their own costs.

(REKHA MITTAL)
JUDGE

29.01.2019
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Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No