IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

243 FAO-3577-2017 (O&M)
Date of decision: 13.09.2019

THE ORIENTAL INSURANCE COMPANY ... Appellant

Versus

KAILASH CHAND & ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Vinod Chaudhri, Advocate for the appellant.
None for the respondents.
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REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 22.02.2017 passed by the Motor Accidents Claims Tribunal, Karnal whereby compensation has been assessed on account of death of Bimla Rani in a motor vehicular accident that took place on 27.07.2016.

The Tribunal awarded Rs.10,56,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.6085/-
Addition in income for future prospects	50%
Multiplier	17
Deduction for personal expenses	50%
Loss of dependency	Rs.9,31,056/-
Expenses on funeral	Rs.25,000/-
Loss of love and affection	Rs.1,00,000/-

Counsel for the insurance company would submit that addition in income for future prospects and compensation allowed 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**.

There is no representation on behalf of the claimants, earlier represented by a counsel.

The Tribunal has assessed income of the deceased at Rs.6085/- per month by taking into consideration account statement Ex.R1 produced by RW1-Anil Kumar, CTO Punjab National Bank. The plea of claimants is that deceased was getting salary of Rs.25,000/- per month. However, they did not examine any witness to prove employment and income of the deceased. The Tribunal, in para 18 of the award, has noticed the documents produced by the claimants with regard to educational qualification of the deceased. The deceased had done Diploma in Electrical Engineering from Haryana State Board of Technical Education, Chandigarh as per detailed marks certificate of 3 years/6 semesters. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time coupled with educational qualification of the deceased, income of the deceased is assessed at Rs.12,000/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. The deceased was less than 26 years of age having born on 15.10.1990 and accident took place on 27.07.2016. The admissible multiplier for the age group from 16 to 25 is 18 and 26 to 30 to be 17 in view of judgment of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77**. However no provision has been made as to what multiplier should be applied if the deceased is more than 25 years but less than 26 years on the basis of his/her date of birth. Taking into consideration the legislative intent behind the provisions providing for compensation, the benefit of this situation which has not been taken care of should be extended to the claimants. Accordingly, admissible multiplier would be 18. In this manner, loss of dependency is calculated at Rs.18,14,400/- [(12,000 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.18,44,400/- and additional amount is Rs.7,88,400/- (18,44,400 - 10,56,000), 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. A copy of this judgment be sent to the claimants for recovery of additional amount.

13.09.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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