IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
-.-

FAO 3705 of 2017 (O&M)
Date of decision 31.01.2019

*New India Assurance Co Limited* *.....Appellant*

*versus*

*Simrandeep Kaur and others* *.....Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Mr. Vnod Gupta, Advocate
for the appellant

None for the claimants

Mr. Mayank Bansal, Advocate
for respondent No. 6
-.-

**Rekha Mittal, J. (Oral)**

The present appeal directs challenge against award dated 27.02.2017 passed by the Motor Accidents Claims Tribunal, Ludhiana (in short, 'the Tribunal') whereby compensation has been assessed on account of death of Jagdev Singh in a motor vehicular accident that took place on 12.07.2014.

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

The Tribunal has assessed compensation to the tune of Rs.14,60,000.00, detailed hereunder:-

| | |
|---|---|
| Monthly income of the deceased | Rs.6,000.00 |
| Addition in income for future prospects | 50% |
| Deduction for personal expenses | 1/4th |

| | |
|---|---|
| Multiplier | 14 |
| Loss of dependency | Rs.11,34,000.00 |
| Loss of love and affection | Rs.2,00,000/ (50,000/- each) |
| Loss of consortium | Rs.1,00,000.00 |
| Funeral expenses | Rs.25,000.00 |

The sole submission made by counsel for the insurance company is that the Tribunal has allowed addition in income for future prospects at the rate of 50% but the same should 25% as the deceased was more than 40 years of age. Compensation allowed under conventional heads needs to be restricted to Rs.70,000.00, in the light of judgments of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SCC 1270*** and ***Sebastiani Lakra and others vs. National Insurance Company Limited and another, 2018 AIR (SC) 5034.***

There is no representation on behalf of the claimants despite service.

Counsel for respondent No. 6 has nothing to say with regard to compensation payable to claimants.

The Tribunal has assessed income of the deceased at Rs.6,000.00 per month. The Tribunal in para 14 of the award has noticed that from evidence of PW2 and documents produced by claimants, it is established that Jagdev Singh Sidhu was doing business of sale and purchase of Computer and other allied items. However, the claimants did not produce any evidence with regard to income of the deceased from the said business. Taking a clue from notification issued by the State of Punjab fixing minimum wage at the relevant time coupled with the fact that the deceased was involved in business of sale and purchase of Computer and allied items, interest of justice commands that income of the deceased is fixed at Rs.9,000.00 per month. Addition in income for future prospects would be 25%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In view of the above, loss of dependency is calculated at Rs.14,17,500.00 (Rs.15,12,000.00 *i.e.* 9,000 x 12 x 14 + Rs.3,78,000.00 (25% addition) – Rs.4,72,500.00 (1/4th deduction)).

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.70,000.00 (Rs.40,000.00 for loss of consortium, Rs.15,000.00 each qua loss to estate and funeral expenses).

In view of the above, total compensation is Rs.14,87,500.00 and additional amount is Rs.27,500.00 (Rs.14,87,500.00 – Rs.14,60,000.00) payable with interest @ 7.5% per annum from the date of petition till realization.

Disposed of accordingly.

(Rekha Mittal)
Judge

31.01.2019
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