IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 373 of 2017 (O&M)
Date of decision: 20.09.2019

Reliance General Insurance Company Limited ....*Appellant*

Versus

Anita Devi and others ....*Respondent*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Ms Priya Deep, Advocate
for the appellant

Mr. Kulvir Narwal, Advocate
for respondents No. 1 to 5

Ms Parveen Maan, Advocate
for respondents No. 6 and 7

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Rekha Mittal, J. (Oral)

Challenge in the present appeal has been directed against award dated 01.12.2016 passed by the Motor Accidents Claims Tribunal, Kurukshetra (in short, 'the Tribunal') whereby compensation has been assessed on account of death of Puran Chand in a motor vehicular accident that took place on 07.11.2015.

The Tribunal awarded Rs.21,74,600, detailed hereunder:-

-Monthly income of the deceased	Rs.8,100
-Addition in income for future prospects	50%
-Deduction for personal expenses	1/4th
-Multiplier	16
-Loss of dependency	Rs.17,49,600/-

-Loss of care and affection	Rs.3,00,000/- (Rs.1,00,000/- each to claimants 2 to 4)
-Loss of consortium to claimant No. 1	Rs.1,00,000/-
-Funeral expenses	Rs.25,000/-

Counsel for the insurance company would inform that the appeal has been filed to assail only quantum of compensation.

The plea of claimants is that deceased was working as Labourer with Kamboj Juice Corner, Ladwa, District Kurukshetra thereby earning Rs.10,000/- per month. However, the claimants failed to adduce any evidence to prove employment and income of deceased from Kamboj Juice Corner, Ladwa. The Tribunal has treated him as casual labourer and, as such, assessed his income at Rs.8,100/- per month. Taking a clue from notification issued by the State of Haryana, fixing minimum wage at the relevant time, I do not find any reason to interfere in assessment of monthly income by the Tribunal. The claimants shall be entitle to addition in income for future prospects at the rate of 40%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. As such, loss of dependency is Rs.16,32,960/- (Rs.15,55,200/- *i.e.* 8,100 x 12 x 16 + Rs.6,22,080/- (40% addition in income) – Rs.5,44,320/- (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 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.

In view of the above, total compensation is Rs.17,02,960/- and compensation assessed by the Tribunal is reduced to the extent of Rs.4,71,640/- (Rs.21,74,600.00 – Rs.17,02,960.00). The insurance company shall be entitle to recover excess amount, if already paid, by filing an appropriate application before the Tribunal.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

20.09.2019
Mohan Bimbra

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