IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

110 **XOBJC No.141-CII of 2018 in/and**
FAO No.1479 of 2018 (O&M)

Date of Decision : 06.03.2019

ORIENTAL INSURANCE COMPANY

....APPELLANT

V/S

DARSHNA DEVI AND OTHERS

....RESPONDENTS

CORAM : HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. Varun Sharma, Advocate for
Mr.Satpal Dhamija, Advocate
for the appellant.

Mr. Amandeep Saini, Advocate
for respondent Nos.1 to 4/Cross Objectors.

B.S. WALIA, J. (ORAL)

CM No.13689-CII of 2018

For the reasons as are mentioned in the application, the same is allowed. Delay of 44 days in re-filing the appeal is condoned, subject to all just exceptions.

XOBJC No.141-CII of 2018

Notice in the cross objections.

Mr. Varun Sharma, Advocate appearing on behalf of the appellant/Insurance Company accepts notice.

FAO No.1479 of 2018

[1] Appeal has been filed by the Insurance Company, seeking reduction of compensation of Rs.20,64,400/- awarded by the learned Motor Accidents Claims Tribunal, Rupnagar (hereinafter referred to as 'the Tribunal').

[2] Learned counsel for the appellant in terms of the notice of motion confined his arguments to scaling down of future prospects from 50% to 40% and award of compensation on account of conventional heads from Rs.2,50,000/- to Rs.70,000/- only.

[3] Claimants on the other hand have filed cross-objections seeking enhancement of compensation by taking into account higher income and higher rate of interest. However, at the time of argument, learned counsel for the cross-objectors/claimants does not press the cross-objections.

[4] On the basis of evidence, the learned Tribunal assessed the income of the deceased at Rs.8400/- per month and by taking into account his age as 35 years, applied multiplier of '16' and by making deductions of 1/4th of the income of the deceased and further by taking into account 50% of the established income of the deceased towards future prospects awarded total compensation of Rs.20,64,400/-.

[5] Admittedly, the deceased was 35 years of age and was not working on a permanent job. Therefore, the claimants would not be entitled to addition of 50% of the actual salary of the deceased to the income on account of future prospects but only to 40% in terms of paragraph No.61(iv). Likewise, as per paragraph No.61(viii) of the decision in '***National Insurance Company Limited*** *versus* ***Pranay Sethi and others***', *2017(4) RCR (Civil) 1009*, a sum of Rs.40,000/- is payable on account of loss of consortium and

Rs.15,000/- each on account of funeral expenses and loss of estate as against Rs.2,50,000/- awarded by the learned Tribunal.

Accordingly, in the light of the position as noted above, the appeal is allowed to the extent as noted above and cross-objections are dismissed as not pressed.

[6] Learned counsel for the parties jointly state that the income of the deceased was much below the taxable limits. Therefore, no deduction is to be made on account of income tax.

[7] In the light of the position noted above, the claimants/cross-objectors are held entitled to the following compensation:-

Particulars	**Assessed by the Tribunal (in ₹)**	**Re-assessed by the High Court (in ₹)**
Income assessed	8400/-	8400/-
Add:Future Prospects	50% of 8400/- = 4200/-	40% of 8400/- = 3360/-
Deductions	1/4th of 12,600/- =3150/-	1/4th of 11,760/- = 2940/-
Total Income	12600/- - 3150 /- = 9450/-	11760/- - 2940/- = 8820/-
Multiplier	16	16
Dependency	9450/- x12x16=18,14,400/-	8820/- x12x16=16,93,440/-
Loss of consortium	1,00,000/-	40,000/-
Love & affection	1,00,000/-	NIL
Funeral Expenses	50,000/-	15,000/-
Loss of Estate	NIL	15,000/-
Total compensation	**20,64,400/-**	**17,63,440/-**
Rate of interest	6%	6%

[8] Accordingly, as against compensation of Rs.20,64,400/- awarded by the learned Tribunal, Rupnagar the claimants/cross-objectors are held entitled to compensation of Rs.17,63,440/- along with interest @ 6% per annum with effect from date of claim petition, till date of payment less

payment, if any, already made. Accordingly, the appeal is **allowed**, award dated 06.09.2017, passed by the learned Tribunal, Rupnagar is **modified** to the extent as noted above while cross-objections are dismissed as not pressed.

(B.S. WALIA)
JUDGE

March 06, 2019
'Rajneesh'

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