IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

254 FAO-1724-2018 (O&M)

Date of decision: 16.10.2019

IFFCO TOKIO GENERAL INSURANCE COMPANY LIMITED

.. Appellant

Versus

SONA DEVI AND ORS

.. Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sandeep Singh, Advocate for the insurance company.
Mr. Sumit Gupta, Advocate for the claimants.

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REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against award dated 08.01.2018 passed by the Motor Accidents Claims Tribunal, Karnal whereby compensation has been assessed on account of death of Dharam Pal in a motor vehicular accident that took place on 09.04.2017.

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

The Tribunal awarded Rs.16,60,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.10,000/-
Addition in income for future prospects	30%
Multiplier	13
Deduction for personal expenses	1/4th
Loss of dependency	Rs.11,70,000/-
Expenses on funeral	Rs.15,000/-
Loss of estate	Rs.15,000/-
Loss of consortium	Rs.40,000/-
Medical expenses	Rs.69,000/-

Counsel for the appellant would argue that income of deceased assessed by the Tribunal is on higher side and needs reduction. Addition in income for future prospects should be restricted to 25% as the deceased was in the age bracket of 46 to 50 years.

The plea of claimants is that deceased was doing the business of sale and purchase of grains etc and running a milk dairy. The Tribunal has noticed that claimants have not adduced any authentic evidence to establish avocation and income of the deceased. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.8000/- per month. Claimants shall be entitle to addition in income for future prospects @ 25%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.11,70,000/- [(8000 x 12 x 13) + (25% future prospects) – (1/4th deduction for personal expenses)].

Compensation allowed under conventional heads and reimbursement of medical expenses is affirmed. In this manner, total compensation is Rs.13,09,000/- and compensation assessed by the Tribunal is reduced to the extent of Rs.3,51,000/- (16,60,000 - 13,09,000). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

In view of what has been discussed hereinbefore, the appeal is partly allowed in the aforesaid terms.

16.10.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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