IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-206-2018 (O&M)
Date of decision: 26.02.2019

United India Insurance Company Ltd.

...Appellant

Versus

Kajal and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. R.C. Kapoor, Advocate
for the appellant.

Ms. Swati, Advocate for
Mr. J.S. Saneta, Advocate for respondent Nos.1 to 4.

Mr. Sandeep Lather, Advocate for respondent Nos.5 & 6.

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H.S. MADAAN, J. (Oral)

On account of death of one Dalbir son of Zile Singh, in a motor vehicular accident, which took place on 03.06.2016, in the area near BBMB, allegedly due to rash and negligent driving of car No.HR-05AE-0141 by respondent No.1 Joginder Singh, legal representatives of the deceased, namely, his wife Smt. Kajal, aged about 21 years, minor daughter Baby Poonam, aged about 2 months, mother Jai Kaur, aged about 58 years and father Zile Singh, aged about 65 years had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 claiming compensation of Rs.50 lacs. In the said claim petition, they arrayed Joginder Singh-driver, Karamvir Narwal-owner, United India

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Insurance Company Ltd., Panipat-insurer of offending car No.HR-05AE-0141 as respondents. After contest, the claim petition was allowed by Motor Accidents Claims Tribunal, Panipat, vide award dated 11.10.2017 and compensation of Rs.17,89,200/- was awarded to the claimants payable by the respondents jointly and severally along with interest @ 7.5% p.a., besides costs of the claim petition. The amount was ordered to be apportioned among the claimants as detailed in the award itself.

Respondent No.3-Insurance Company feeling aggrieved by the said award for the reason that the compensation given was on the higher side, has approached this Court by filing the present appeal, notice of which was given to the respondents, who have put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

The first and foremost argument advanced by learned counsel for the appellant is that the monthly income of the deceased has been taken to be Rs.7600/- and 50% of that amount, has been added towards future prospects, when in terms of ratio of the authority **National Insurance Company Limited** Vs. **Pranay Sethi and others**, 2017 (4) RCR (Civil) 1009, keeping in view the age of the deceased to be 29 years and his avocation as ordinary unskilled labourer, the minimum wages for which in the year 2016 had been prescribed as Rs.7600/-, the increase should have been to the extent of 40%. As per ratio of the authority **Pranay Sethi and others** (supra), in case deceased was self employed, an addition of 40% of the established income should be given when

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deceased was below the age of 40 years. Contention of learned counsel for the appellant has got force, therefore, addition of 40% is to be allowed towards future prospects. In that way, the monthly income of deceased is arrived at Rs.10,640/-.

Learned counsel for the appellant has further contended that the tribunal should have allowed deduction of 1/3rd towards personal expenses of the deceased, keeping in view the number of dependents upon him i.e. his wife, minor daughter, mother and his father was wrongly taken as a dependent upon the deceased, in that way, making deduction of 1/4th towards personal expenses. Whereas, this contention is being contested by learned counsel for the respondents. After hearing the counsel, I find that it is consistent case of the claimants that all four of them were dependents upon earning of the deceased. Claimant No.4-Zile Singh, father of the deceased is mentioned to be of 65 years, therefore, it can safely be taken that he was not doing any work and was dependent upon his son for meeting his needs. The tribunal was justified in making deduction of 1/4th of the amount towards personal expenses of the deceased. Doing that the dependency of claimants is worked out to Rs.95,760/- (Rs.7980 X 12).

There is no dispute as regards use of multiplier of 17. Doing that, the total dependency comes out to Rs.16,27,920/- As regards, the compensation awarded under conventional heads, learned tribunal has awarded as sum of Rs.10,000/- towards loss of consortium, Rs.10,000/- towards loss of estate and Rs.25,000/- towards funeral expenses. In that

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way, total amount of Rs.45,000/- was awarded. In view of the ratio of authority **Pranay Sethi and others** (supra), the claimants are entitled to get a sum of Rs.15,000/- under the head loss of estate, Rs.40,000/- under loss of consortium and Rs.15,000/- under the head funeral expenses, making it total of Rs.70,000/-. Total compensation payable comes out to be Rs.16,97,920/-

The tribunal has awarded compensation of Rs.17,89,920/- to the claimants. The said amount is modified to Rs.16,97,920/- The direction regarding apportionment and other terms & conditions shall remain the same. In terms of order dated 16.01.2018, payment beyond Rs.15 lacs has been stayed. In that way, the appellant-Insurance Company shall pay/deposit the balance amount due at the earliest not later than a period of one month from today. In that way, the appeal is allowed partly.

26.02.2019 **(H.S. MADAAN)**
sumit.k **JUDGE**

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No

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