In the High Court of Punjab and Haryana at Chandigarh

FAO No. 5309 of 2017 (O&M)
Date of Decision: 25.9.2019

New India Insurance Company

---Appellant

versus

Satya Devi and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. R.D.Sharma, Advocate
for the appellant
Mr. Shaurya Punj, Advocate,
for Mr. Tarun Vir S. Lehal, Advocate
for respondents No. 1 to 4

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Rekha Mittal, J.

The present appeal directs challenge against award dated 9.5.2017 passed by the Motor Accidents Claims Tribunal, Ropar (in short "the Tribunal") whereby compensation has been assessed on account of death of Gian Singh in a motor vehicular accident that took place on 28.4.2016.

The Tribunal awarded Rs.7,13,680/-, detailed hereunder:-

Monthly income of the deceased	Rs. 6400/-
Deduction for personal expenses	1/4th
Increase in income for future prospects	15%
Multiplier	7
Loss of dependency	Rs. 4,63,680/-
Loss of consortium	Rs. 1 lakh
Loss of love and affection	Rs. 1 lakh
Funeral expenses	Rs. 50,000/-

The plea of claimants is that deceased was a mason by profession thereby earning Rs. 20,000/- per month. However, the Tribunal has noticed that claimants failed to adduce sufficient evidence to prove avocation and income of deceased. Taking a clue from notification issued by the State of Punjab fixing minimum wage at the relevant time coupled with age of deceased, income of deceased assessed by the Tribunal warrants no interference. However, claimants shall not be entitle to addition in income for future prospects as the deceased was more than 60 years of age. The claim application has been filed by the widow and three adult sons aged 38, 35 and 34 years. There is nothing on record suggestive of the fact that sons of deceased were dependent on his earning. At the same time, they cannot be denied substantial amount qua loss to estate. In the given circumstances, I do not find any reason to interfere in deduction for personal expenses made by the Tribunal. Multiplier applied is correct and affirmed. In this manner, loss of dependency is calculated at Rs. 4,03,200/- [6400 x 12 x 7 -1/4th thereof].

Under conventional heads, compensation allowed is modified to the effect that claimants shall be entitle to Rs. 70,000/-, detailed hereunder:-

Loss of consortium	Rs. 40,000/-
Expenses on funeral	Rs. 15,000/-
Loss of estate	Rs. 15,000/-

Counsel for the appellant would submit that interest allowed @ 9% per annum should be reduced. However, contention is rejected when examined in the light of judgment of Hon'ble the Supreme Court ***Sandhya Rani Debbarma and others vs. National Insurance Co. Ltd. and another, 2016 (16) SCC 206.***

Total compensation is Rs. 4,73,200/-. Compensation allowed by the Tribunal is reduced to the extent of Rs.2,40,480/-. The insurance company shall be entitle to recover the excess amount, if paid, by filing an appropriate application before the Tribunal.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

25.9.2019
PARAMJIT

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