IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 5807 of 2017 (O&M)
Date of decision: 09.05.2019

National Insurance Company Limited ....*Appellant*

Versus

Ramandeep Kaur and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Satpal Dhamija, Advocate
for the appellant

Mr. M K Bhatnagar, Advocate
for respondents 1 to 4

-.-

Rekha Mittal, J. (Oral)

The present appeal directs challenge against award dated 17.03.2017 passed by the Motor Accidents Claims Tribunal, SAS Nagar, Mohali (in short, 'the Tribunal') whereby compensation has been assessed on account of death of Kiranjit Singh in a motor vehicular accident that took place on 11.07.2015.

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

The Tribunal awarded Rs.31,94,730/-, detailed hereunder:-

-Monthly income of the deceased	Rs.12,940/-
-Addition in income for future prospects	50%
-Deduction for personal expenses	1/4th
-Multiplier	17

-Loss of dependency	Rs.29,69,730/-
-Loss of love & affection/care & guidance	Rs.1,00,000/-
-Loss of consortium to widow	Rs.1,00,000/-
-Funeral expenses	Rs.25,000/-

The Tribunal has allowed benefit of addition in income for future prospects @ 50% as against 40%, in the light of judgment of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SC 1270.*** Accordingly, the claimants shall be entitle to addition in income for future prospects at the rate of 40%.

The application for compensation has been filed by the widow, minor daughter and parents of the deceased aged 49 and 54 years. There is nothing on record suggestive of the fact that father of deceased aged 54 years had any disability rendering him incapable to earn livelihood. In the given circumstances, father of deceased cannot be held to be dependent on earning of the deceased, a married boy who had his own family. That being so, admissible deduction for personal expenses would be 1/3rd. Income of the deceased and multiplier applied by the Tribunal are correct and affirmed. As such, loss of dependency is calculated at Rs.24,63,776/- (Rs.26,39,760/- *i.e.* 12,940 x 12 x 17 + Rs.10,55,904/- (40% addition) – Rs.12,31,888/- (1/3rd deduction)).

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that the 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 ***Pranay Sethi's case (supra)*** and ***Sebastiani Lakra and others vs. National Insurance Company Limited and another, 2018 AIR***

(SC) 5034.

Total compensation is Rs.25,33,776/- and compensation allowed by the Tribunal is reduced to the extent of Rs.6,60,954/- (Rs.31,94,730.00 – Rs.25,33,776.00).

The Tribunal has awarded interest @ 6% per annum in case the payment is made within two months, failing which it would be 9% per annum. The penal interest cannot be allowed to sustain when examined in the light of judgment of Hon'ble the Supreme Court in ***National Insurance Company Limited vs Keshav Bahadur, 2004 (ACJ) 648***. The respondents/claimants shall be entitle to interest @ 7.5% per annum on the amount found payable by this Court from the date of petition till realization.

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

(Rekha Mittal)
Judge

09.05.2019
Mohan Bimbra

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