

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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XOBJC-209-CII of 2017 (O&M) in/and

FAO-6120-2017 (O&M)

Date of decision: 04.10.2019

SBI GENERAL INSURANCE CO LTD

... Appellant

Versus

BOOTA SINGH AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Man Mohan, Advocate for the appellant.
Ms. Neeraj, Advocate for
Mr. Dheeraj Narula, Advocate for the claimants/cross objectors.
None for respondent No.5.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO No.6120 of 2017 and cross objections No.209-CII of 2017 as these have emerged out of the same award dated 18.07.2017 passed by the Motor Accidents Claims Tribunal, Sirsa whereby compensation has been assessed on account of death of Gurbachan Kaur in a motor vehicular accident that took place on 23.06.2014.

FAO No.6120 of 2017 has been filed by SBI General Insurance Co. Ltd. (hereinafter referred to as 'the insurance company') whereas cross objections have been filed by the claimants seeking enhancement of compensation.

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

The Tribunal awarded Rs.5,16,000/-, detailed hereunder:-

Notional income of the deceased	Rs.4000/-
Multiplier	7
Loss of dependency	Rs.3,36,000/-
Expenses on funeral and transportation	Rs.30,000/-
Loss of consortium	Rs.1,00,000/-
Loss of love and affection	Rs.50,000/-

Counsel for the insurance company would argue that as the claim has been preferred by major and married sons of the deceased, they cannot be allowed loss of dependency. In support of his contention, he has referred to judgment of Hon'ble the Supreme Court **Smt. Manjuri Bera Vs.**

The Oriental Insurance Company Ltd. and another, 2007(2) RCR (Civil) 674. In addition, it is argued that compensation allowed under conventional heads may be modified in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270.**

Another submission made by counsel is that as eldest son of the deceased is stated to be 47 years old, age of the deceased would certainly be more than 65 years.

Counsel representing the cross objectors/claimants, on the contrary, would argue that notional income of the deceased assessed by the Tribunal is on lower side and needs enhancement.

The claim has been filed by four sons of the deceased aged 41 years to 47 years. It is difficult to accept that even if the sons are married having their families, they can be denied compensation with regard to loss of services of the deceased, their mother. A house-maker has multifarious duties to perform. There is nothing on record suggestive of the fact that deceased was suffering from any ailment impairing her capacity to render household services to her family members. Taking a clue from notification issued by the State of Haryana fixing minimum wage coupled with that a house-maker has multifarious duties to perform along with the fact that deceased was approximately 65 years old, notional income of the deceased qua her services is assessed at Rs.6000/- per month. In absence of any other evidence with regard to date of birth or age of the deceased, the Tribunal has rightly relied upon her age mentioned in the postmortem report. The insurance company failed to adduce any evidence to rebut evidence adduced by the claimants in this regard. Since eldest son of the deceased is 47 years old, it cannot be held that the deceased could not deliver that child at the age of 18 years. In the given scenario, age of the deceased assessed by the Tribunal cannot be taken as faulty. In view of the above, loss of dependency is calculated at Rs.5,04,000/- (6000 x 12 x 7).

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitle to Rs.15,000/- for funeral expenses/last rites.

Total compensation is Rs.5,19,000/- and additional amount is

Rs.3000/- (5,19,000 - 5,16,000), payable with interest @ 7.5% per annum from the date of petition till realization, to be shared by the claimants in equal ratio.

The appeal and cross objections are disposed of in the aforesaid terms.

04.10.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No