IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

264 FAO-4745-2018 (O&M)

Date of decision: 09.07.2019

UNITED INDIA INSURANCE CO LTD ... Appellant

Versus

KARAMJIT KAUR AND OTHERS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ram Avtar, Advocate for the appellant.
Mr. Chetan Kapoor, Advocate for respondents No.1 and 2.

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REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 30.04.2018 passed by the Motor Accidents Claims Tribunal, Sangrur whereby compensation has been assessed on account of death of Balwant Singh in a motor vehicular accident that took place on 12.06.2016.

Counsel for the insurance company would inform that the appeal has been filed to challenge only quantum of compensation assessed by the Tribunal.

The Tribunal awarded Rs.11,62,547/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.10,000/-
2. Addition in income for future prospects	10%
3. Multiplier	11
4. Deduction for personal expenses	1/3rd
5. Loss of dependency	Rs.9,72,840/-
6. Expenses on funeral	Rs.15,000/-
7. Loss of estate	Rs.15,000/-
8. Loss of consortium	Rs.40,000/-
9. Reimbursement of medical expenses	Rs.1,19,707/-

Counsel for the insurance company would argue that income of the deceased assessed by the Tribunal is on higher side and multiplier should be 9 in place of 11 allowed by the Tribunal.

The plea of claimants is that the deceased was an agriculturist thereby earning Rs.50,000/- per month. The Tribunal, in para 15 of the award, has noticed that claimants did not produce any documentary evidence to prove that the deceased was an agriculturist or he was selling milk or vegetables. Testimony of Karamjit Kaur, widow of the deceased does not find corroboration from an independent source with regard to avocation of the deceased. The Tribunal has assessed income of the deceased at Rs.10,000/- per month while treating the deceased as a casual labour. Taking a clue from notification issued by the State of Punjab fixing minimum wage, income of the deceased is assessed at Rs.7200/- per month. Deduction for personal expenses and addition for future prospects allowed by the Tribunal are correct and affirmed. However, the admissible multiplier would be 9. In this manner, loss of dependency is calculated at Rs.5,70,240/- [(7200 x 12 x 9) + (10% future prospects) – (1/3rd deduction for personal expenses)].

Compensation allowed by the Tribunal under conventional heads as well as reimbursement of medical expenses are correct and affirmed. In this manner, total compensation is Rs.7,59,947/- and compensation allowed by the Tribunal is reduced to the extent of Rs.4,02,600/- (11,62,547 - 7,59,947). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

The appeal is partly allowed in the aforesaid terms.

09.07.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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