In the High Court of Punjab and Haryana at Chandigarh

FAO- 890 of 2017 (O&M)
Date of Decision: 10.7.2019

National Insurance Company Limited

---Appellant

versus

Smt. Taro Devi and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Deepak Suri, Advocate
for the appellant

Ms. Kiranjeet Kaur, Advocate,
for Mr. Ravinder Malik (Ravi), Advocate
for respondent No. 1

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Rekha Mittal, J.

Challenge in the present appeal has been directed against award dated 27.10.2016 passed by the Motor Accidents Claims Tribunal, Panchkula (in short "the Tribunal") whereby compensation has been assessed on account of death of Soni Kumar in a motor vehicular accident that took place on 28.8.2015.

Counsel for the appellant would inform that initially the appeal was preferred to challenge quantum of compensation and findings qua driving licence but challenge in respect of driving licence no more subsists as driving licence is in Smart Card form, therefore, service of respondents No. 2 and 3 may be dispensed with.

Ordered accordingly.

The Tribunal awarded Rs. 13,20,910/-, detailed hereunder:-

Monthly income of the deceased	Rs. 8470/-
Deduction for personal expenses	50%
Addition in income for future prospects	50%
Multiplier	17
Loss of dependency	Rs. 12,95,910/-
Funeral expenses, transportation of dead body and last rites	Rs. 25,000/-

The plea of the claimant is that deceased was working as carpenter thereby earning Rs. 30,000/- per month. In para 14 of the award, the Tribunal has noticed that no evidence was adduced by the claimant to substantiate her plea with regard to avocation and income of deceased. Under the circumstances, the Tribunal has assessed income of deceased at Rs. 8470/- per month by treating him as unskilled labour. When the case is examined in the light of notification issued by the State of Haryana fixing minimum wage, there is no justification for allowing additional compensation with regard to income of deceased. However, claimant shall be entitle to increase in income for future prospects @ 40%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs. 12,09,516/- [8470 x 12 x 17= 17,27,880 + 6,91,152 (40%)= 24,19,032 -12,09,516 (50%)].

Under conventional heads, claimant shall be entitle to Rs. 30,000/- in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270** and **Sebastiani Lakra and others vs. National Insurance Company Limited and another AIR 2018 SC 5034,** detailed hereunder:-

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

Total compensation is Rs. 12,39,516/- and compensation allowed by the Tribunal is reduced to the extent of Rs. 81,394/- (13,20,910- 12,39,516). The insurance company shall be entitle to recover the excess amount, if already paid.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

10.7.2019
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No