209

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Cross-Objection No.258-CII-2015 in/and
FAO-3623-2015(O&M)
Date of Decision: July 19, 2019

Reliance General Insurance Company Ltd.
.....Appellant

Versus

Mohinder Kaur and others
......Respondents

CORAM: HON'BLE MS.JUSTICE NIRMALJIT KAUR

Present: Mr.Subhash Goyal, Advocate
for the appellant-Insurance Company.

Mr.Vishal Sodhi, Advocate
for respondent No.1-cross-objector.

Mr.R.S.Chauhan, Advocate
for respondent Nos.2 and 3.

....

NIRMALJIT KAUR, J. (ORAL)

Both, the appeal as well as the cross-objections shall stand decided by this common order.

The appeal has been filed by the appellant-Insurance Company qua the quantum on the ground that income of the deceased has been wrongly assessed on the higher side. As per the minimum wages as applicable in State of Punjab in the year 2007, he was entitled to only ₹2620/- per month. Secondly, the amount towards consortium should only be ₹70,000.00 and not ₹1,00,000.00 in view of the judgment of Hon'ble Apex Court in **National Insurance Company Limited vs Pranay Sethi and others**, 2017(16) SCC 680.

Learned counsel for respondent No.1-cross-objector-claimant while supporting the cross-objections submitted that the deceased was doing dairy farming and his application for additional evidence to produce the photograph as proof of the fact that the deceased was doing dairy farming was allowed and therefore, the income assessed at ₹6000.00 per month is on the lower side and in any case, it cannot be reduced. Secondly, the claimant is entitled to 25% increase in the income towards future prospects, which has not been granted.

Learned counsel for the Insurance Company, however, does not dispute with respect to the grant of future prospects. However, the argument of Insurance Company that the income should have been ₹2620.00 per month in view of the minimum wages cannot be accepted. It was not only a case of salary but deceased was also doing dairy farming and was supporting his family. Therefore, to say that he was only earning less than ₹100/- per day in the year 2007 does not appeal to any reason. He was a able bodied person doing dairy farming and, therefore, ₹6,000.0 per month cannot be said to be on the higher side. However, there is merit in the argument that the amount under 'Conventional Head' should have been ₹70,000.00 and not ₹1,20,000.00, as awarded by the Tribunal. Learned counsel for the cross-objector-claimant too is not able to dispute the said fact on the basis of legal proposition settled by the judgment rendered in the case of **Pranay Sethi**(supra). The same is accordingly reduced to ₹70,000.00. In view of the agreed settled proposition of law, the amount towards future prospects is accordingly granted to the extent of 25%.

In view of the above, the claimant is entitled to the enhancement as per the calculations below:

Income	₹6000.00 p.m.
Future prospects @ 25%	₹1500.00
Gross Income	₹7500.00
After deducting 1/3rd, net income	₹5,000.00 (₹7500.00- ₹2500.00)
Dependency	₹5000.00 x 12 x 14 ₹8,40,000.00
Conventional Heads	₹70,000.00
Total	₹9,10,000.00
Amount Awarded by the Tribunal	₹7,93,100.00
Amount enhanced	₹1,16,900.00 (₹9,10,000.00- ₹7,93,100.00)

The total amount of ₹9,10,000.00, as per the above calculation has to be awarded to the claimant. Therefore, after deducting the amount already granted to her, the claimant is entitled to the enhanced amount of ₹1,16,900.00 (₹9,10,000.00- ₹7,93,100.00). The said amount be paid to the claimant alongwith interest @ 6% per annum from the date of filing of the claim petition in the same terms as held by the Tribunal within two months from the date of receipt of a certified copy of this order. In case the said amount is not deposited within two months from the date of receipt of a copy of this order, thereafter, the same shall be deposited alongwith interest @ 12% from the expiry of the said two months.

Disposed of accordingly.

July 19, 2019 **(NIRMALJIT KAUR)**
meenuss **JUDGE**

1. **Whether speaking/reasoned ?** **Yes/No**
2. **Whether reportable ?** **Yes/No**