In the High Court of Punjab and Haryana at Chandigarh

Date of Decision:16.9.2019

FAO No. 993 of 2017 (O&M)

IFFCO TOKIO General Insurance Company Limited

---Appellant

vs.

Baseeri and others

---Respondents

FAO No. 4655 of 2017 (O&M)

Baseeri and others

---Appellants

vs.

Akbar and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

***

Present: Mr. Neeraj Khanna, Advocate
for the insurance company

Mr. Ashish Gupta, Advocate
for the claimants

***

Rekha Mittal, J.

This order will dispose of FAO No. 993 and 4655 of 2017 as these have emerged out of the same award dated 28.9.2016 passed by the Motor Accidents Claims Tribunal, Mewat (in short "the Tribunal") whereby compensation has been awarded on account of death of Pataliya in a motor vehicular accident that took place on 20.5.2015.

FAO No. 993 of 2017 has been filed by IFFCO TOKIO General Insurance Company Limited (hereinafter referred to as "the insurance company") whereas the other appeal has been filed by the claimants seeking enhancement of compensation.

CM No. 3193-CII of 2017 in FAO-993 of 2017

Heard.

Allowed as prayed for. Delay of 30 days in filing the appeal stands condoned.

Disposed of accordingly.

Main cases

Counsel for the parties are ad idem that entire exercise with regard to assessment of compensation is required to be undertaken afresh in view of income of deceased at the time of death, deduction for personal expenses, addition in income for future prospects, multiplier applied coupled with deduction qua financial assistance available to family of deceased under the Haryana Compassionate Assistance to the Dependants of the Deceased Government Employees Rules, 2006 (in short "Rules of 2006").

Indisputably, the deceased was working as Beldar in PWD (B&R) Department at salary of Rs. 22,848/- per month. He was 51 years old at the time of death. The claim has been filed by the widow and three adult sons aged 31, 29 and 26 years of the deceased. The monthly income of deceased is assessed at Rs. 22,850/-. Claimants shall be entitle to addition in income for future prospects @ 15%.

Counsel for the claimants has got no objection if deduction for personal expenses is allowed to the tune of 1/3rd. Even if widow of deceased is held to be sole dependent on his earning, admissible deduction for personal expenses would be 1/3rd and admissible multiplier is 11 as deceased was in the age bracket of 51 to 55 years. In this manner, loss of dependency is calculated at Rs.23,12,420/- [22,850 x 12 x 11 =30,16,200 + 4,52,430(15%)= 34,68,630 – 11,56,210 (1/3rd)]

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs. 70,000/- , detailed hereunder:-

Loss of consortium	Rs. 40,000/-
Expenses on funeral	Rs. 15,000/-
Loss of estate	Rs. 15,000/-

Total compensation is Rs. 23,82,420/-

The deceased was an employee of the Haryana Government and widow of deceased shall be entitle to financial assistance under the Rules of 2006 for a period of seven years. The amount of financial assistance comes to 22,850 x 12 x7 = Rs.19,19,400/-. However, 50% thereof is amenable to deduction in the light of judgment of this Court **Kamla Devi and others vs. Sahib Singh and others FAO No. 3064 of 2013 decided on 30.11.2017.** In this manner, total compensation is Rs. 14,22,720/- Rs. (23,82,420–– 9,59,700) and compensation allowed is reduced to the extent of Rs. 9,83,116/- (24,05,836-14,22,720). The insurance company shall be entitle to recover the excess amount, if paid, by filing an appropriate application before the Tribunal.

Appeals stand disposed of in the aforesaid terms.

(Rekha Mittal)
Judge

16.9.2019
paramjit

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