IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O No. 5401 of 2017
Date of decision:- 28.11.2019

Iffco Tokio General Insurance Co. Ltd. ...Appellants

Versus

Meena Devi and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Ravinder Arora, Advocate, and
Mr. Neeraj Khanna, Advocate
for the appellant

None for respondent No. 1 to 3

RITU BAHRI J. (Oral)

C.M. No. 17014 and 15-CII-2017

For the reasons mentioned in the applications, delay in filing and refiling of the appeal stands condoned.

The applications stand disposed of accordingly.

FAO No. 5401-2017

The present appeal has been filed by the Insurance Company challenging the award dated 11.01.2017 passed by learned Motor Accident Claims Tribunal, Rewari, whereby a total amount of Rs.47,20,000/- was awarded in favour of the claimants.

Learned counsel for the appellant is not challenging the award on issue No. 1 and is challenging the award only on the ground that the Tribunal has erred in law by taking the income of the deceased as Rs.4,61,000/ by relying upon the income tax return Ex P.W.3/4 which was for the year 2014-15. This income tax return was filed after the death of the deceased i.e. 13.08.2014. Further the multiplier of 11 should have been applied instead of 13 as the deceased was 52 years old. The future prospects of 10% should have been awarded instead of 15

Heard learned counsel for the appellant.

The present appeal deserves to be allowed as the Tribunal should have considered the income tax return for the year 2013-2014 where the income of the deceased was shown as Rs3,64,082/-, as the deceased expired on 13.08.2014. Further the multiplier of 11 should have been applied instead of 13 and the future prospects of 10% should have been awarded, as the deceased was 52 years old at the time of accident.

However**,** mother and children are also entitled for compensation of Rs.40,000/- each under the head of loss of consortium, in view of judgment of Hon'ble the Supreme Court of India in a case of ***Magma General Insurance Co. Ltd vs Nanu Ram Alias Chuhru Ram, 2018 (4) RCR Civil 837*** **.**

In view of the discussion above, the claimants are entitled to compensation as mentioned below:-

Sr. No.	***Heads***	***Calculations***
(i)	Income	Rs.3,64,082/- per annum
(ii)	10% of (i) above to be added as future prospects=	Rs.364082+Rs.36408=Rs.4,00,490/- per annum
(iii)	1/3rd of (ii) deducted as personal expenses of the deceased=	Rs.400490-Rs.133496=Rs.266994/- per annum
(iv)	Compensation after multiplier of 11 is applied	Rs.266994 X 11= Rs.29,36,934/-
(v)	Conventional heads (Loss of estate, consortium and funeral expenses)	Rs.70,000/-
(vi)	Loss of consortium (children of the deceased)	Rs.80,000/- (Rs.40,000/- each)
	Total Compensation to be awarded now	Rs.30,86,934/-

Resultantly, the appeal is partly allowed. Accordingly, the claimants are entitled to compensation of Rs.30,86,934/- which shall be payable within a period of forty five days from the date of receipt of certified copy of this order. The amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization, in view of judgment of Hon'ble the Apex Court in Civil Appeal No. 4528-2019 titled as ***Dara Singh @ Dhara Banjara vs. Shyam Singh Varma and ors, decided on 01.05.2019***. The remaining conditions of disbursal of amount and recovery rights shall remain unaltered.

Further it is hereby directed that the amount of Rs.25,000/- deposited by the appellant at the time of filing of appeal, in the Registry of this Court be returned.

28.11.2019 **(RITU BAHRI)**

G Arora ***JUDGE***

Whether speaking/reasoned ***Yes***

Whether reportable ***No***