In the High Court for the States of Punjab and Haryana
At Chandigarh

FAO-2882-2020 (O&M)
Date of Decision:-25.9.2020

IFFCO-TOKIO General Insurance Company Limited … Appellant

Versus

Sunita Ahuja and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Yogesh Gupta, Advocate for the appellant.

Mr. Nishant Raj, Advocate for the respondents.

(proceedings conducted through video conferencing)

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GURVINDER SINGH GILL, J.(Oral)

1. The appellant-IFFCO-TOKIO General Insurance Company Limited assails award dated 6.7.2020 passed by learned Motor Accident Claims Tribunal, Panipat, whereby the learned Tribunal has awarded compensation to the tune of ₹45,74,500/- to the claimants apart from compensation to the extent of ₹40,000/- each to claimants No.2 to 5 (children) towards loss of parental consortium.

2. The learned counsel for the appellant submits that the Tribunal ought to have assessed the income of deceased on the basis of average of the last three income tax returns and not simply on the basis of income in the last income tax return. The learned counsel has submitted that gross total income of the

deceased as per income tax return for the assessment year 2014-2015 was ₹2,68,545/-; for the assessment year 2015-2016 was ₹3,85,885/- and for the assessment year 2016-2017 was ₹4,18,565/- and since there is a lot of difference in the said returns, the Tribunal ought to have considered an average of the aforesaid returns.

3. I have considered aforesaid submissions.

4. While, this Court does find that there has been an increase of about ₹1 lakh in the gross total income of deceased as reflected in income tax returns for the assessment years 2014-2015 and 2015-2016, but there was a marginal increase of about ₹33,000/- only in the gross total income of deceased as per income tax returns for the assessment years 2015-2016 and 2016-2017. In any case, it can safely said that with every passing year there would be some increase in business and profitability. In the present case, there is no such substantial increase during the last years i.e. between 2015-2016 and 2016-2017 so as to justify any interference in the findings as recorded by the Tribunal especially since the last income tax return was filed during the life time of deceased and it is not a case that the same was filed after his death.

5. The aforesaid contention being devoid of merits cannot be accepted.

6. The learned counsel has next submitted that since it has come on record that after the death of deceased his son stepped into shoes and is doing same business, therefore, the income as assessed by the Tribunal ought to have been reduced to some extent on account of the said fact.

7. I have considered the aforesaid submission.

8. The deceased was into the business of water purifiers. It is not a case that the deceased was manufacturing these water purifiers. Apparently, the deceased

was into sale or trading of such water purifiers. It cannot be said that the deceased had left some assets in respect of his business for his heirs to capitalise on. It is not a case that the deceased had left behind a manufacturing unit or some land or factory for his children in the shape of assets. In case the children of deceased, who were saddled with the responsibility of earning money, were able to do well in the business, it cannot be said that the income of deceased or dependency as worked, is required to be reduced. The aforesaid contention being sans merit especially in the present circumstances where there is no evidence to the effect that some kind of assets in respect of the business concerned had been left by the deceased, can not be accepted

9. No other submission has been raised on behalf of the appellant to assail the impugned award.

10. This Court does not find any infirmity in the findings as recorded by the Tribunal as regards negligence or quantum of the compensation. Finding no merit in the appeal, the same is hereby dismissed.

11. The statutory amount of ₹25,000/-, which must have been deposited by the appellant at the time of instituting this appeal in this Court, be transmitted to the Tribunal concerned for disbursal to the claimants for satisfaction of award.

25.9.2020 **(Gurvinder Singh Gill)**
pankaj **Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No