IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

213 **Date of decision: 29.01.2020**

XOBJC-179-CII of 2015 (O&M) in/and
FAO No.1534 of 2015 (O&M)

New India Assurance Co. Ltd. ... Appellant

Versus

Kamaljit Kaur and ors. ... Respondents

FAO No.1596 of 2015 (O&M)

New India Assurance Co. Ltd. ... Appellant

Versus

Paramjit Singh and ors. ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Abhishek Goyal, Advocate for
Mr. Pardeep Goyal, Advocate for insurance company.
Ms. Ekta Thakur, Advocate for claimants/cross objectors.

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO No.1534 of 2015 and cross objections No.179-CII of 2015 in said FAO and FAO No.1596 of 2015 as these have emerged out of the same award dated 01.09.2014 passed by the Motor Accidents Claims Tribunal, Chandigarh whereby compensation has been assessed on account of death of Manpreet Singh and Swaran Kaur, in a motor vehicular accident that took place on 04.03.2012.

FAO Nos.1534 and 1596 of 2015 have been filed by New India Assurance Co. Ltd. whereas cross objections have been filed by claimants Kamaljit Kaur and others for seeking additional compensation in respect of death of Manpreet Singh.

Counsel for the insurance company would inform that appeals have been filed to assail only quantum of compensation.

CM No.17686-CII of 2015 in XOBJC-179-CII of 2015

Heard.

Allowed as prayed for. Delay of 28 days in filing the cross objections stands condoned.

CM No.4361-CII of 2015 in FAO No.1534 of 2015

Heard.

Allowed as prayed for. Delay of 65 days in filing the appeal stands condoned.

XOBJC-179-CII of 2015 in/and FAO No.1534 of 2015

The Tribunal awarded Rs.13,27,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.6000/-
Addition in income for future prospects	50%
Multiplier	16
Deduction for personal expenses	$1/3^{rd}$
Loss of dependency	Rs.11,52,000/-
Expenses on funeral	Rs.25,000/-
Loss of estate	Rs.50,000/-
Loss of consortium	Rs.1,00,000/-

Counsel for the appellant would argue that addition in income for future prospects and compensation allowed under conventional heads may be modified. For this purpose, reference has been made to judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**. In addition, it is argued that assessed income of the deceased is on higher side and merits reduction.

Counsel for the claimants/cross objectors, on the contrary, would argue that since the deceased was 26 years old, multiplier should be 17.

The plea of claimants is that deceased was working as mason thereby earning Rs.10,000/- per month. However, they did not examine any witness to prove that deceased was actually doing masonry work, as has been noticed by the Tribunal. When the case is examined in the light of notification issued by the State of Punjab fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.5000/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. As the deceased was 26 years old, admissible multiplier is 17. In this manner, loss of dependency is calculated at Rs.9,52,000/- [(5000 x 12 x 17) + (40% future prospects) – ($1/3^{rd}$ deduction for personal expenses)].

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

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-

3. Funeral expenses Rs.15,000/-

Total compensation is Rs.10,22,000/- and compensation assessed by the Tribunal is reduced to the extent of Rs.3,05,000/- (13,27,000 - 10,22,000). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

The appeal is partly allowed in the aforesaid terms and cross objections are disposed of.

FAO No.1596 of 2015

The Tribunal awarded Rs.11,55,000/- but later corrected to Rs.10,15,000/- vide order dated 29.11.2014, detailed hereunder:-

Monthly value of services of deceased	Rs.5000/-
Multiplier	14
Loss of dependency	Rs.8,40,000/-
Expenses on funeral	Rs.25,000/-
Loss of estate	Rs.50,000/-
Loss of consortium	Rs.1,00,000/-

Counsel would argue that compensation allowed under conventional heads may be modified. For this purpose, reference has been made to judgment of Hon'ble the Supreme Court **Pranay Sethi and Others's case (supra).**

The Tribunal has awarded Rs.1,75,000/- under conventional heads. Claimants are not entitle to any compensation for loss of estate as the deceased was not earning hand. Compensation for loss of consortium and funeral expenses would be Rs.55,000/-, detailed hereunder:-

1. Expenses on last rites Rs.15,000/-
2. Loss of consortium Rs.40,000/-

In this manner, compensation allowed by the Tribunal is reduced to the extent of Rs.1,20,000/- (10,15,000 – 8,95,000). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

The appeal is partly allowed in the aforesaid terms.

29.01.2020 **(REKHA MITTAL)**
ashok **JUDGE**

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