IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

231 FAO-3125-2016 (O&M)

Date of decision: 12.02.2020

NATIONAL INSURANCE COMPANY LTD ... Appellant

Versus

RAJ AND ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Pardeep Goyal, Advocate for the appellant.
Mr. Rajbir Singh, Advocate for minor claimants.

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REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against award dated 26.10.2015 passed by the Motor Accidents Claims Tribunal, Amritsar whereby compensation has been assessed on account of death of Heera Lal in a motor vehicular accident that took place on 07.10.2013.

Counsel for the insurance company would inform that appeal has been filed to assail only quantum of compensation assessed.

As respondents No.5 and 6/claimants are minor, Sh. Rajbir Singh, Advocate, present in the Court, is appointed as Guardian ad litem on behalf of minor respondents.

The Tribunal awarded Rs.15,35,400/-, detailed hereunder:-

Monthly income of the deceased	Rs.8000/-
Addition in income for future prospects	30%
Multiplier	14
Deduction for personal expenses	1/4th
Loss of dependency	Rs.13,10,400/-
Expenses on funeral	Rs.25,000/-
Loss of consortium	Rs.1,00,000/-
Loss of love and affection	Rs.1,00,000/-

Counsel for the appellant would argue that income of deceased assessed by the Tribunal is on higher side and needs modification. Addition in income for future prospects and compensation under conventional heads may be modified, in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**.

Counsel representing the minor claimants, on the contrary, would argue that deceased was working as mason and income was rightly assessed by the Tribunal.

The plea of claimants is that deceased was working as mason thereby earning Rs.12,000/- per month. However, they did not produce sufficient evidence to establish that deceased was a mason much less earning Rs.12,000/- per month. The Tribunal has assessed income of the deceased by considering him a labour. 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.7000/- per month. Claimants shall be entitle to addition in income for future prospects @ 25%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.11,02,500/- [(7000 x 12 x 14) + (25% future prospects) – (1/4th 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.11,72,500/- and compensation assessed by the Tribunal is reduced to the extent of Rs.3,62,900/- (15,35,400 - 11,72,500). 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.

12.02.2020 **(REKHA MITTAL)**
ashok **JUDGE**

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