IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

239 FAO-4209-2016 (O&M)

Date of decision: 30.01.2020

NEW INDIA ASSURANCE COMPANY LTD ... Appellant

Versus

RAFFAT AND ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Vinod Gupta, Advocate for the appellant.
None for the claimants.
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REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against award dated 05.04.2016 passed by the Motor Accidents Claims Tribunal, Panchkula whereby compensation has been assessed on account of death of Takareem in a motor vehicular accident that took place on 13.12.2013.

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

The Tribunal awarded Rs.20,69,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.9000/-
Addition in income for future prospects	50%
Multiplier	16
Deduction for personal expenses	$1/4^{th}$
Loss of dependency	Rs.19,44,000/-
Expenses on funeral	Rs.25,000/-
Loss of consortium	Rs.1,00,000/-

The plea of claimants is that deceased was working as mason. The Tribunal, in para 26 of the award, had observed that even if the deceased was working as a mason, there was nothing to say that he was a skilled mason. When the case is examined in the light of notification issued by the State of Haryana fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.5700/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.11,49,120/- [(5700 x 12 x 16) + (40% future prospects) – ($1/4^{th}$ 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.12,19,120/- and compensation assessed by the Tribunal is reduced to the extent of Rs.8,49,880/- (20,69,000 - 12,19,120). 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.

30.01.2020 **(REKHA MITTAL)**
ashok **JUDGE**

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