IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5644-2016 (O&M)
and
XOBJC-92-CII-2017 (O&M)
Date of Decision: February 24, 2020

Oriental Insurance Company Limited

...Appellant

Versus

Parminder Kaur and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL.

Present: Mr. Ram Avtar, Advocate,
for the appellant.

Mr. Varun Jain, Advocate,
for cross-objectors-respondent Nos. 1 to 4.

REKHA MITTAL, J. (ORAL)

CM-22249-CII-2019 in FAO-5644-2016:

Heard.

Allowed as prayed for. Copy of the order dated 30.06.2017 (Annexure A-1), passed by the Commissioner under Employees Compensation Act, 1923, is taken on record, subject to just exceptions.

Disposed of accordingly.

FAO-5644-2016 & XOBJC-92-CII-2017:

This order will dispose of FAO No. 5644 of 2016 and Cross-objections No. 92-CII of 2017 as these have emerged out of the same award dated 29.04.2016, passed by the Motor Accident Claims Tribunal, Patiala, whereby compensation has been assessed on account of death of

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Harbhajan Singh in a motor vehicular accident that took place on 28.04.2015.

FAO No. 5644 of 2016 has been filed by the Oriental Insurance Company Ltd. (hereinafter referred to as 'the Insurance Company'), whereas cross-objections have been filed by the claimants.

Counsel for the Insurance Company would inform that as the Insurance Company has not preferred any appeal against the award passed under the Employees Compensation Act, 1923, copy whereof has been taken on record as Annexure A-1, the limited controversy subsists in the appeal is qua quantum of compensation.

The Tribunal awarded Rs.4,11,000/- vide order dated 21.05.2016, by way of amendment of the original award dated 29.04.2016, detailed hereunder:-

Annual income of the deceased	Rs.39,000/-
Deduction of personal expenses (1/3rd)	Rs.13,000/-
Compensation after applying multiplier of 11	Rs.2,86,000/-
Loss of consortium	Rs.1,00,000/-
Funeral expenses	Rs.25,000/-
Total	Rs.4,11,000/-

The sole submission made by counsel for the appellant is that compensation allowed under conventional heads may be modified in the light of structured formula provided under the Second Schedule appended to Section 163-A of the Motor Vehicles Act, 1988 (in short, 'the Act').

Counsel for the claimants/cross-objectors, on the contrary, would argue that as the application for compensation has been filed by four

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claimants, deduction for personal expenses should be 1/4th. He has pressed for grant of additional compensation by extending benefit of future prospects.

Indisputably, the application for compensation has been filed under Section 163-A of the Act, wherein compensation is to be assessed in consonance with the structured formula envisaged in the Second Schedule appended thereto. That being so, compensation allowed by the Tribunal for loss of dependency is affirmed as claimants can neither press for extending benefit of future prospects nor can seek deduction for personal expenses less than 1/3rd.

Compensation allowed under conventional heads is modified to the effect that claimants shall be entitle to Rs.9,500/-, detailed hereunder:-

Loss of consortium	Rs.5,000/-
Loss of estate	Rs.2,500/-
Funeral expenses	Rs.2,000/-
Total	Rs.9,500/-

As a consequence, compensation allowed by the Tribunal is reduced to the extent of Rs.1,15,500/-. The insurance company shall be at liberty to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms. However, the cross-objections are dismissed leaving the

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parties to bear their own costs. As the cross-objections have been decided on merits, application for condonation of delay is of academic relevance.

(REKHA MITTAL)
JUDGE

February 24, 2020
Pkapoor Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO

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