IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

236 FAO-6989-2017 (O&M)

Date of decision: 10.01.2020

RELIANCE GENERAL INSURANCE CO LTD ... Appellant

Versus

JOTHY & ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sanjeev Kodan, Advocate for the appellant.
Ms. Priyadeep, Advocate for
Mr. Ashwani Arora, Advocate for respondent Nos.1 to 5.
Mr. Anil Chawla, Advocate/guardian ad litem
for respondents No.3 and 4.

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REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against award dated 05.07.2017 passed by the Motor Accidents Claims Tribunal, Chandigarh whereby compensation has been assessed on account of death of Sh.Moncy P.A. in a motor vehicular accident that took place on 20.10.2015.

Counsel for the insurance company would inform that appeal has been filed to assail quantum of compensation and findings qua driving licence.

The Tribunal awarded Rs.15,04,200/- (rounded off to Rs.15,05,000/-), detailed hereunder:-

Monthly income of the deceased	Rs.7200/-
Addition in income for future prospects	30%
Multiplier	14
Deduction for personal expenses	1/4th
Loss of dependency	Rs.11,79,400 /-
Expenses on funeral	Rs.25,000/-
Loss of consortium	Rs.1,00,000/-
Loss of love and affection to claimants No.2 to 5	Rs.2,00,000/- (Rs.50,000/- each)

Counsel would argue that addition for future prospects and compensation under conventional heads may be modified in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270** and **Sebastiani Lakra and others vs. National Insurance Company Limited and**

another AIR 2018 SC 5034.

With regard to driving licence, it is argued that as per document Ex.R10 (Annexure A1), the driver was licensed to drive a transport vehicle from 18.11.2015 to 17.11.2018 but accident took place on 20.10.2015, therefore, he was not competent to drive the offending vehicle on the day of accident.

Counsel representing the claimants, on the contrary, would argue that as per order of notice of motion dated 25.10.2017, only the amount of future prospects was ordered to be deposited in a fixed deposit and remaining amount was disbursed in favour of the claimants.

Claimants shall be entitle to addition in income for future prospects @ 25%. Other criteria adopted for computing loss of dependency is correct and affirmed. In this manner, loss of dependency is calculated at Rs.11,34,000/- [(7200 x 12 x 14) + (25% future prospects) – (1/4th deduction for personal expenses)]. The amount of future prospects is Rs.2,72,200/- and addition of interest thereon would make it more than the amount allowed under conventional heads minus the amount to which the claimants are entitle under conventional heads, in the light of judgments relied upon by counsel for the insurance company, therefore, compensation allowed under conventional heads 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.12,04,000/- and compensation assessed by the Tribunal is reduced to the extent of Rs.3,01,000/- (15,05,000 – 12,04,000). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

So far as plea of the insurance company with regard to driving licence, the same is patently misconceived and liable to be rejected. In the report Ex.R10, there is a note that Harpreet Singh was authorised to drive transport vehicle w.e.f. 16.11.2011 but supportive documents are not available as the office building got burnt on 02.02.2017. In this view of the matter, no fault can be found in findings of the Tribunal holding the insurance company jointly and severally liable to pay compensation without any right of recovery.

No other point has been raised.

In view of what has been discussed hereinbefore, the appeal is partly allowed in the aforesaid terms.

10.01.2020 **(REKHA MITTAL)**
ashok **JUDGE**

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