**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

243 FAO-8542-2017 (O&M)

Date of decision: 31.01.2020

ORIENTAL INSURANCE COMPANY LIMITED ... Appellant

Versus

RUPINDER KAUR AND ORS ... Respondents

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present : Mr. Varun Sharma, Advocate for the appellant.
Mr. MK Singla, Advocate for respondent No.1.
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**REKHA MITTAL, J. (Oral)**

Challenge in the present appeal has been directed against award dated 19.07.2017 passed by the Motor Accidents Claims Tribunal, Fatehgarh Sahib whereby compensation has been assessed on account of death of Amardeep Singh @ Sunny in a motor vehicular accident that took place on 07.12.2007 but the deceased succumbed to injuries on 25.12.2007.

The Tribunal awarded Rs.8,91,000/-, detailed hereunder:-

| | |
|---|---|
| Monthly income of the deceased | Rs.8000/- |
| Addition in income for future prospects | 50% |
| Multiplier | 11 |
| Deduction for personal expenses | 50% |
| Loss of dependency | Rs.7,92,000/- |
| Expenses on funeral | Rs.25,000/- |
| Medical expenses | Rs.49,000/- |
| Loss of love and affection | Rs.50,000/- |

The first submission made by counsel for the appellant is that respondent/claimant asserted her claim for compensation being natural mother of the deceased by contending that deceased had executed Will in her favour. He would argue that income of the deceased assessed by the Tribunal is on higher side and needs reduction. 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.**

Counsel representing the respondent/claimant, on the contrary, would argue that as the deceased was less than 25 years of age, multiplier applied may be corrected. He would argue that adoptive parents of the deceased died and the deceased came back to family of his natural parents and he executed registered Will in favour of the claimant while lying admitted in PGI, Chandigarh. It is further submitted that till date no one raised an issue with regard to said registered Will.

The insurance company, possibly, cannot raise an issue qua correctness or otherwise of the Will i.e. testamentary succession to estate of the deceased. The Tribunal has adverted to this contention and negated plea of the insurance company. I do not find any reason to differ with findings of the Tribunal on this aspect of the matter.

The plea of claimant is that deceased was an agriculturist and dairy farmer thereby earning Rs.60,000/- per month. The Tribunal, in para 20 of the award, has noticed that claimant did not examine any witness much less adducing documentary evidence to prove avocation and income of the deceased. Taking a clue from notification issued by the State of Punjab fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.2600/- per month. Claimant shall be entitle to addition in income for future prospects @ 40%. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. However, as the deceased was less than 25 years of age, admissible multiplier is 18. In this context, reference can be made to judgments of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77**, **Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315** and **Pranay Sethi and others's case (supra)**. In this manner, loss of dependency is calculated at Rs.3,93,120/- [(2600 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Reimbursement of medical expenses i.e. Rs.49,000/- allowed by the Tribunal is affirmed.

Under conventional heads, compensation allowed is modified to the effect that claimant shall be entitle to Rs.30,000/-, detailed hereunder:-

| | |
|---|---|
| 1. Expenses on last rites | Rs.15,000/- |
| 2. Loss of estate | Rs.15,000/- |

Total compensation is Rs.4,72,120/- and compensation assessed by the Tribunal is reduced to the extent of Rs.4,18,880/- (8,91,000 - 4,72,120). 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.

31.01.2020 **(REKHA MITTAL)**
ashok **JUDGE**

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