IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-619 of 2021(O&M)
Date of Decision: 07.09.2021

Reliance General Insurance Company Limited

…Appellant

Versus

Savitri Devi & Ors.

…Respondents

CORAM : HON'BLE MR. JUSTICE SUDHIR MITTTAL

Present:- **Mr. Subhash Goyal, Advocate**
For the appellant.

Mr. Arvind Kumar Yadav, Advocate
For respondent Nos.1 to 3.

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<u>SUDHIR MITTAL, J.(ORAL)</u>

1. Vide impugned award dated 09.02.2021, claim on account of death of Pawan Sharma in a motor vehicular accident on 16.03.2017, has been allowed and compensation of Rs. 40,66,861/- has been awarded.

2. In this appeal, the first and foremost contention raised by Insurance Company is that evidence on record regarding the employment of the deceased was not creditworthy. Thus, the record was summoned and with the assistance of counsel for appellant, the same has been perused.

3. Learned counsel for the appellant has taken me through the cross-examination of PW3 Virender Singh, Proprietor of Budget Cargo Logistics Private Limited(the company where the deceased was allegedly employed). The trend of cross-examination is that Budget Cargo Logistics Private Limited was a fake entity. The Partner of the Company failed to produce any record regarding Tax Deducted at Source from the salary of the

employees and record pertaining to ownership of the vehicles. He also could not produce any record pertaining to hired vehicles. Receipts of salary of other employees were also not produced.

4. If the case of the appellant is that Budget Cargo Logistics Private Limited is a fake entity, exercise of conducting cross-examination was not required. It only needed to go online and produce the record of the search. If the entity was not in existence, evidence in support thereof would be forthcoming. Thus, this argument is rejected.

5. It is next contended that deceased was not an employee of the aforementioned entity. This argument also cannot be accepted. Alongwith appointment letter dated 01.02.2016 (Ex.PW3/A) on record is a statement of salary breakup. Salary slips pertaining to various months are on record as Ex.PW3/B. In the light of this evidence, submission that claimants had failed to establish any connection between deceased and Budget Cargo Logistics Private Limited is not accepted. Merely because attendance register was not produced, it cannot be said that the claimants failed to establish a link.

6. Lastly, it has been submitted that from PAN card of the deceased it is evident that his age was about 37 years at the time of death. The Tribunal has erred in recording his age as 30 years. This has resulted in application of wrong multiplier of 17 by the Tribunal as against the multiplier of 15.

7. Notice of motion to the aforementioned limited extent to respondents No.1 to 3 only.

8. Mr. Arvind Kumar Yadav, Advocate has accepted notice on behalf of respondents No.1 to 3. He submits that from PAN card of the deceased, it is evident that his date of birth was 15.08.1980 and thus, his age at the time of accident was 36 years and 07 months and thus, multiplier of 15 was applicable.

9. In view of the above, the appeal is partially allowed. The multiplier of 17 applied by Tribunal is reduced to 15. The annual dependency assessed by the Tribunal is Rs. 2,33,856/- (Rs. 19488/- x 12). Applying the multiplier of 15, the amount comes to Rs.35,07,840. After adding the amount of Rs.91,309/- awarded by the Tribunal under other conventional heads, the total compensation amount comes to Rs.35,99,149/-. The same be paid to the claimants along with 9% interest in the mode and manner, as directed by Tribunal.

10. With the aforesaid modification/ reduction in compensation amount, the appeal stands partly allowed.

(SUDHIR MITTAL)
JUDGE

07.09.2021
Jiten Sharma

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No