In the High Court of Punjab and Haryana, at Chandigarh

F.A.O. No. 309 of 2021 (O&M)

Date of Decision: 23.03.2021

United India Insurance Company Limited

... Appellant(s)

Versus

Smt. Santosh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Raj Kumar Bashamboo, Advocate for the appellant.

Anil Kshetarpal, J.

The insurance company has filed this appeal assailing the correctness of the award passed by the Motor Accident Claims Tribunal, Sonepat (hereinafter referred to as "the Tribunal") awarding a sum of ₹ 42,16,129/- on account of death of Jagdish aged 43 years. The accident took place on 18.05.2018 and he left behind his widow and four children, who are all studying.

Learned counsel appearing for the appellant contends that the Tribunal has erred in assessing the monthly income of the deceased at ₹28,350/- on the basis of the income-tax returns for the year 2018-19, which was filed after his death. He submits that in fact the deceased did not file income-tax returns for the assessment year 2015-16, 2016-17 and 2017-18 and therefore, there is no evidence regarding the regular income of the deceased.

This Court has gone through the award passed by the Tribunal.

In order to prove the income of the deceased, the claimants produced the income-tax returns for the year 2012-13, 2013-13 and 2014-15 apart from the year 2018-19. No doubt, the income-tax return for the year 2018-2019 is alleged to have been filed on 07.06.2018, however, it is significant to note that the deceased had continuously filed his income-tax returns for the year 2012-13, 2013-13 and 2014-15. As per the income-tax return for the year 2014-15, the annual income of the deceased was ₹ 2,18,400/-. Still further, when the widow appeared in evidence, she made a positive statement that her husband was self-employed and was running a dairy apart from carrying on the business of sale and purchase of milk yielding animals and hence, used to earn ₹ 35,000/- per month. Learned counsel representing the insurance company, while cross-examining the witness, did not challenge the veracity of her statement or correctness thereof. She was not even asked as to why the income-tax returns were not filed for the years 2015-16, 2016-17 and 2017-18. There is even no suggestion that the income-tax return for the year 2018-19 has been filed only to claim higher compensation. It is well settled that if correctness of a statement made by the witness in examination-in-chief is not contested in the cross-examination, such part of the statement is deemed to have been admitted.

It is further significant to note that the deceased was residing in village Sardana, Tehsil Ganaur, District Sonepat. He started filing his income-tax returns way back in the year 2012-13, that means for the previous year 2011-12. A perusal of the income-tax returns show that the income of the deceased was increasing steadily with each passing year. In such circumstances, the Motor Accident Claims Tribunal has not erred in assessing the monthly income of the deceased at ₹ 28,350/-.

Keeping in view the aforesaid facts, no ground is made out to interfere. Hence, the appeal is dismissed.

The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

March 23, 2021
"DK"

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