220 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4272-2016(O&M)
Date of decision: 20.04.2022

United India Insurance Company Limited
....Appellant

Versus

Rajnesh Devi and others
..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Sanjiv Pabbi, Advocate for the appellant

Mr. K.S.Dhanora, Advocate for the claimants

ANIL KSHETARPAL, J (Oral)

The Insurance Company calls into question the correctness of the assessment made by the Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as 'the Tribunal') while allowing the claim petition filed under Section 140 and 166 of the Motor Vehicles Act, 1988. Late Sh. Subhash Chand, aged about 28 years lost his precious life in a motor vehicular accident, which took place on 23.03.2015. There is no challenge to the findings of fact arrived at by the Tribunal on the involvement of the vehicle and its association in rash and negligent driving. The learned counsel representing the appellant contends that on account of enhancement in the income of the deceased due to future prospects the Tribunal has wrongly awarded escalation of 50% whereas as per ***National Insurance Company Ltd. vs. Pranay Sethi and other'*** *2017 (10) SCC 450*, 40% escalation from the income assessed on account of future prospects were to be awarded. He further submits that on account of loss of consortium (spousal, filial and parental) each claimant can at the most be awarded Rs.40,000/- each. He further submits that on account of funeral expenses Rs.25,000/- have been awarded whereas the amount to be awarded must be Rs.15,000/-.

The learned counsel representing the appellant further contends that the Tribunal has erred in assessing the income of the deceased on the basis of DC rate by ignoring the notification under the Minimum Wages Act, 1948. The Deputy Commissioner in exercise of his powers notifies the daily wages payable to the daily wager. In the considered view of the Court, such declaration by the Deputy Commissioner is more realistic than the notification under the Minimum Wages Act, 1948.

The learned counsel representing the claimants does not dispute the position in view of the judgment passed in **Pranay Sethi's case (supra)**. Hence, the amount of compensation is re-worked as under:-

Assessment made by the Tribunal	Assessment made by this Court
Income = Rs.10,200/- 1/3rd deduction Rs.3400 10200-3400 = 6800 Future prospects 50% i.e 3400 Income = 6800+3400=10,200 Annual income= 10200x 12=1,22,400	Income = Rs.10,200/- 1/3rd deduction Rs.3400/- 10200-3400 = 6800 Future prospects 40% i.e 2720 Income = 6800+2720= 9520 Annual Income = 9520x 12 = 1,14,240/-
Multiplier of 17 122400x17 =20,80,800	Multiplier of 17 114240x 17= 19,42,080/-
Consortium of Rs.1,00,000/- each to claimants 100000x2 = 2,00,000/-	Consortium of Rs.40,000 each i.e 40000x4 = 1,60,000/-
Funeral expenses Rs.25,000/-	Funeral Expenses and loss of estate Rs.30,000/-
Total= 23,05,800/-	Total 21,32,080/-

Disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

20.04.2022 **(ANIL KSHETARPAL)**
rekha **JUDGE**
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No