IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No.221

FAO No.1101 of 2017 (O&M)
Date of Decision: 02.12.2022

Reliance General Insurance Company Ltd. .... Appellant

Versus

Smt. Swarnjeet Kaur and others ... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Sanjeev Kodan, Advocate for the appellant.

Mr. Hari Ram, Advocate for respondents No.1 to 3.

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__TRIBHUVAN DAHIYA, J. (ORAL)__

This appeal has been filed by the insurance company against the award passed by Motor Accident Claims Tribunal, Kurukshetra, dated 09.12.2016, on the ground that the amount of compensation has been wrongly assessed by the Tribunal. The three grounds of challenge, as argued by learned counsel for the Insurance, are; deceased's income has been wrongly assessed, future prospects have also been wrongly awarded at the rate of 50% and compensation awarded under the conventional heads is not in accordance with law.

2. The facts of the case in brief are, the accident in question is dated 15.10.2013 resulting in grievous injuries to Randhir Singh, who later died in the hospital on that account on 11.05.2014. The respondents/claimants are his widow and two minor children. Deceased's age was 36 years at the time of death. The claimants pleaded that the deceased had approximately eight acres of land. His widow, while testifying as PW1, proved through entries in *jamabandis* as well as by her oral

deposition that the deceased was an agriculturalist by profession. His claimed income of Rs.20,000/- per month, however, was not accepted by the Tribunal and his monthly income from agricultural operations was assessed as Rs.10,000/- per month.

3. Keeping in view his age, the Tribunal held the claimants/ respondents No.1 to 3 entitled to future prospects at the rate of 50% of the assessed monthly income. The amount of compensation was arrived at by applying multiplier of 15 and deducting 1/3rd of deceased's income towards his personal expenses. Besides, the claimants were also awarded an amount of Rs.1 Lakh each on account of loss of love and affection following the judgment of the Supreme Court in *Rajesh and others v. Rajbir Singh and others* (2013) 9 SCC. A sum of Rs.25,000/- was awarded on account of funeral expenses, Rs.12,262/- for medical expenses and Rs.10,000/- was awarded as transportation charges. In this manner, total compensation awarded was Rs.21,47,262/- along with interest at the rate of 9% per annum to be paid jointly and severally by the insurance company as well as owner and driver of the offending vehicle.

4. Learned counsel for the parties have been heard.

5. There is evidence on record, that is, testimony of PW1 as well as *jamabandis*/revenue record, to establish that the deceased was an agriculturalist by profession, but his claimed income of Rs.20,000/- per month was not believed by the Tribunal and he was assumed to be earning Rs.10,000/- per month from agriculture. Even by conventional standards, a daily wager would have earned that much per month. In case the Tribunal on preponderance of probabilities held the deceased's monthly income as an agriculturalist to be Rs.10,000/- in the year 2013, no exception can be taken to it.

6. The Tribunal has, however, gone wrong in awarding future prospects to the claimants at the rate of 50% of the deceased's monthly income. It is established on record that the deceased was an agriculturalist/self-employed, and was not in a permanent job. Therefore, as per law settled by the Supreme Court in *National Insurance Company Limited v. Pranay Sethi and others* 2017 (4) RCR (Civil) 1009, dependents of a deceased less than forty years of age and not in permanent employment, are entitled to an addition of 40% on the assessed income towards future prospects. Therefore, the claimants are held entitled to an addition of 40% to the assessed income towards future prospects, instead of 50%. The Tribunal's findings under the head of future prospects, accordingly, need modification.

7. So far as grant of Rs.1 Lakh each to the claimants on account of loss of love and affection and Rs.25,000/- on account of funeral expenses is concerned, the same are also not in accordance with law settled by the Supreme Court in *Pranay Sethi* case *(supra),* wherein the earlier judgment of Supreme Court passed in *Rajesh* case *(supra),* was not approved. As per law settled in the former judgment, reasonable figures under the conventional heads, namely, loss of estate, loss of consortium and funeral expenses, should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% every three years. Accordingly, the claimants will be entitled to 10% enhancement with respect to compensation under the conventional heads; with 10% increase the amount under the conventional heads comes to Rs.16,500/-, Rs.44,000/- and Rs.16,500/- respectively.

8. In view of the aforesaid, the award passed by the Tribunal dated 09.12.2016 is modified to the extent that the claimants will be entitled to an

addition of 40% to the deceased's assessed income towards future prospects, and compensation under the conventional heads will stand reduced as per the settled law. The claimants, therefore, are entitled to the following amount of compensation:

Sr. No.	**Head**	**Compensation awarded by this Court.**
1	Annual Income 10,000x12	1,20,000
2	Future prospects @ 40%	48,000
3	Total income including future prospects	1,68,000
4	Income after 1/3rd deduction	1,68,000-56,000=1,12,000
5	Multiplier of 15	16,80,000
6	Loss of Estate	16,500
7	Loss of Consortium	44,000x3=1,32,000
8	Funeral expenses	16,500
9	Total amount of compensation	18,45,000/-

9. Accordingly, the amount of compensation awarded by the Tribunal is reduced from Rs.21,47,262/- to Rs.18,45,000/-with interest at the rate of 9% per annum from the date of filing the claim petition till its actual realization. The liability to satisfy the award, share of the claimants, and the procedure of disbursal shall be as already determined by the Tribunal.

10. Appeal stands disposed of.

11. Pending miscellaneous application(s), if any, stand disposed of as having been rendered infructuous.

(TRIBHUVAN DAHIYA)
JUDGE

02.12.2022
Maninder

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