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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-1948-2023 (O&M)
Date of Decision : 19.05.2023

United India Insurance Company Ltd. ....Appellant

VERSUS

Smt. Urmila & Others ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Satpal Dhamija, Advocate for the appellant.

Mr. Kunal Dawar, Advocate
for caveator-respondent Nos.1 to 3.

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ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the insurance company against the award dated 15.11.2022 passed by the Motor Accident Claims Tribunal, Faridabad.

2. It has been contended by the learned counsel for the appellant that even as per the last Income Tax Return (ITR) of the firm where the deceased was employed, produced by the claimant-respondents, the salary of the deceased would come to Rs.30,500/- per month. However, erroneously, the same has been taken as Rs.35,000/- per month by the Tribunal.

3. Notice of motion.

4. Mr. Kunal Dawar, Advocate has put in appearance on behalf of claimant-respondent Nos.1 to 3 and accepts notice.

5. In the present case the dispute is only qua the salary of the deceased as assessed by the Tribunal. The Tribunal has assessed the salary of the deceased as Rs.35,000/- per month. The contention of learned counsel for the appellant that even if the last ITR of the Firm in which the deceased is stated to have employed is considered, the salary of the deceased for the financial year 01.04.2019 to 31.03.2020 has been shown as Rs.1,52,500/- for a period of five months, since the accident took place on 30.08.2019. The deceased succumbed to his injuries on 25.10.2019.

6. *Per contra*, learned counsel for respondent Nos.1 to 3 is not in a position to dispute that as per the balance sheet for the financial year 01.04.2019 to 31.03.2020, the salary of the deceased has been shown as Rs.1,52,500/- for a period of five months and that the same would work out to Rs.30,500/- per month.

7. I have heard the learned counsel for the parties and with their assistance gone through the ITRs which have been appended with the appeal itself. There is no dispute that in the balance sheet appended for the financial year 01.04.2019 to 31.03.2020 the income of the deceased has been shown as Rs.30,500/- per month.

8. The Tribunal had assessed the compensation as follows :

Sr. No.	Heads	Compensation Awarded
1	Income of the deceased	Rs.35,000/- (per month)
2	Annual Income	Rs.4,20,000/-
3.	Future Prospects 40%	Rs.5,88,000/-

		(Rs.4,20,000/- + Rs.1,68,000)
4.	Deduction of Income Tax	Rs.5,66,000/- (Rs.5,88,000/- - Rs.22,000/-)
5.	Deduction of 1/3rd	Rs.3,77,334/- (Rs.5,66,000 – Rs.1,88,666/-)
6.	Multiplier of 15	Rs.56,60,010/- (Rs.3,77,334/- x 15)
7.	Loss of Estate, Loss of Consortium and Funeral Expenses	Rs.70,000/-
8.	Filial Consortium	Rs.1,20,000/- (Rs.40,000 x 3)
9.	Total Compensation	Rs.58,50,010/- (rounded off to Rs.58,50,000/-)
10.	Interest	9%

9. Going by the ITRs, which were produced by the claimants-respondents herein themselves, the income of the deceased would have to be assessed as Rs.30,500/- per month. Learned counsel for the appellant has not raised any other argument.

10. In view of the above, the present appeal is allowed and the award is modified to the extent that the salary of the deceased is assessed as Rs.30,500/- per month based on the ITRs for the financial year 2019-2020 and the re-assessed compensation is as follows :

Sr. No.	Heads	Compensation Awarded
1	Income of the deceased	Rs.30,500/- (per month)
2	Annual Income	Rs.3,66,000/- (Rs.30,500/- x 12)
3.	Future Prospects 40%	Rs. 5,12,400/- (Rs.3,66,000/- + Rs.1,46,400)
4.	Deduction of Income Tax	Rs.4,90,400/- (Rs.5,12,400/- - Rs.22,000/-)
5.	Deduction of 1/3rd	Rs.3,26,934 /- (Rs.4,90,400 – Rs.1,63,466/-)

6.	Multiplier of 15	Rs.49,04,010/- (Rs.3,26,934/- x 15)
7.	Loss of Estate, Loss of Consortium and Funeral Expenses	Rs.70,000/-
8.	Filial Consortium	Rs.1,20,000/- (Rs.40,000 x 3)
9.	Total compensation	Rs.50,94,010/- (rounded off to Rs.50,94,000/-
10.	Compensation Awarded by the Tribunal	Rs.58,50,000/-
11.	Difference	Rs.7,56,000/-

11. The appeal is accordingly disposed off and the award of the Tribunal stands modified in the above terms. The claimants would be entitled to an amount of Rs 50,94,000/-. The amount shall be apportioned between the claimants as directed by the Tribunal. The amount shall attract interest @ 9% per annum from the date of filing of the claim petition till realization of the entire amount.

12. Pending applications, if any, also stand disposed off.

May 19, 2023 **(ALKA SARIN)**
tripti **JUDGE**

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO