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CM-13758-CII-2023, RA-CR-125-2023 IN FAO-2801-2015

NATIONAL INSURANCE COMPANY LIMITED
versus
MAKHNA DEVI AND OTHERS

Present:- Mr. Deepak Suri, Advocate for applicant-appellant/Insurance Company.

Ms. Ekta Thakur, Advocate for non-applicant-respondents No.1 to 3 and 5.

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CM-13758-CII-2023

For the reasons stated in application, same is allowed. Delay of 82 days in filing review application, is condoned, subject to all just exceptions.

Main case (O&M)

Application herein is under Section 114 read with Section 47 Rule 1 of Code of Civil Procedure, 1908 is for review of judgment dated 11.04.2023 passed by this Court in FAO-1464-2015 and FAO-2801-2015.

2. Learned counsel for review applicant/ Insurance Company has tendered, in course of hearing, a salary certificate of deceased, which is taken on record and marked as Annexure 'A'. Learned counsel submits that though the first appeal filed by Insurance Company was dismissed and appeal filed by claimants for enhancement of compensation was allowed and this Court had enhanced compensation by Rs.88,000/-, but the claimants would not be entitled to any enhanced compensation, rather they have already been awarded excess amount of compensation. He further submits that *per* salary certificate for the month of January 2013, deceased was earning Rs.25,192/- per month and an amount of Rs.1,000/- was deducted towards income tax. However, this Court has deducted a total sum of Rs.1,000/- only towards income tax, which in fact, should have been Rs.12,000/- per annum.

3. On the other hand, learned counsel for non-applicant-respondents No.1 to 3 and 5 opposes the prayer made.

4. Heard.

5. Review has been filed essentially premised on a document Annexure ‘A’, which was filed by the claimants before the Tribunal below, which reflects that income tax of Rs.700/- for the month of November, 2012 was deducted and similarly for the month of January 2013, it was Rs.1,000/- whereas while making calculations for arriving at deduction of income tax at the rate of Rs.1000/- was made vide judgment dated 11.04.2023 passed by this Court, which is under review herein. While on the other hand, my attention has been drawn to Exhibit P-13 by learned counsel for non-applicant-respondents No.1 to 3 and 5 to state that no doubt Annexure ‘A’ was placed with the Tribunal below, but upon verification from the Department witness, namely, Amarjit Singh (PW2), it turned out that tax was being deducted at the rate of Rs.100/- per month as per Exhibit P-13 which duly stood proved on record whereas it was merely placed by the claimants, but before the Tribunal during proceedings, neither it was proved nor referred to and even relied by the complainant witnesses.

3. In any case, on a Court query, learned counsel for applicant-appellant/ Insurance Company candidly informs that in case, Annexure ‘A’ is to be believed over Exhibit P-13, there will be deduction of about Rs.45,000/- to Rs.50,000/- in total.

4. In the totality of circumstances, I find no grounds for review.

5. Dismissed.

6. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

September 02, 2023
mahavir