2023:PHHC:085241

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 224 of 2016 (O&M)
& XOBJC-91-CII-2016
Date of decision : 6.7.2023
...

Reliance General Insurance Company Limited

................Appellant

vs.

Gagandeep Kaur and others
.................Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Ashwani Talwar, Advocate for the appellant

Mr. Vikas Kumar Gupta, Advocate for respondents No.1 to 6 (Cross objectors)

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H. S. Madaan, J. (Oral)

On account of death of Harwinder Singh s/o Amrik Singh, aged about 40 years, statedly working as an agriculturist, earning a sum of Rs.30,000/- per month, in a road side accident, which took place on 24.11.2014, at about 6.00 P.M., in the area of Village Panua, Badala Road, within jurisdiction of Police Station Kharar, statedly on account of rash and negligent driving of motor-cycle bearing registration No. CH-01-AL-5312 by respondent No.1 Sajjan Singh, LRs of such deceased, namely, his widow Smt. Gagandeep Kaur, aged 37 years, minor daughters – Parveen Kaur, aged 17 years, Neetu Kaur, aged 15 years, minor sons –Sukhwinder Singh, aged 9 years, Gurdeep Singh, aged 11 years and mother – Nachhatar Kaur, aged 72 years, all resident of village Jamitgarh, Tehsil and District Fatehgarh Sahib, had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988, against respondents i.e. Sajjan Singh – driver, Mohan Singh - owner and Reliance General Insurance Co. Ltd., through its Branch Manager, Chandigarh - – insurer of the motor-cycle in question.

After contest, the said petition was accepted by the Motor Accidents Claims Tribunal, SAS Nagar, Mohali, vide award dated 9.11.2015 and compensation of Rs.14,41,800/- with interest @ 9% per annum was awarded to the petitioner -claimants payable by all the three respondents, jointly and severally alongwith costs of the petition, as per details given below :-

Date of Accident		***24.11.2014***
Age of the deceased Harwinder Singh		40 years
Claimants 1. Gagandeep Kaur, widow 2. Parveen Kaur, minor daughter 3. Neetu Kaur, minor daughter 4. Sukhwinder Singh, minor son 5. Gurdeep Singh, minor son 6. Nachhattar Kaur, mother		
Sr.No.	***Heads of Claim***	***Tribunal***
		Amount
1	Annual income	Rs.6,500 X 12 + 78,000/-
2	30% Future prospects	Rs. 23,400/-
3	Total income of deceased	Rs.1,01,400/-
4	Personal and living expenses (1/5th)	Rs. 20,280/-
5	Income after deduction of personal and living expenses	Rs. 81,120/-
6	Multiplier	15 (Fifteen)

Sr.No.	***Heads of Claim***	***Tribunal***
7	Amount of compensation	Rs.81,120/- x 15 = Rs.12,16,800/-
8	Loss of consortium	Rs. 1,00,000/-
9	Loss of care and guidance to minor children	Rs. 1,00,000/-
10	Funeral expenses	Rs. 25,000/-
11	**Grand Total**	**Rs. 14,41,800/-**

Finding the compensation so awarded to be on higher side, respondent No.3 – Insurance Company has approached this Court by way of filing the present appeal , notice of which was given to the respondents. The respondents- claimants have put in appearance through counsel. Cross objections have also been filed on behalf of the respondents-claimants, seeking enhancement of compensation.

I have heard learned counsel for the parties, besides going through the record.

Learned counsel appearing for the appellant- Insurance company has confined his arguments with regard to grant of quantum of compensation, not seriously disputing the monthly income of the deceased, assessed as Rs.6,500/-, but objecting to 30% of the future prospects. According to him in terms of judgment ***National Insurance Company Limited vs. Pranay Sethi, 2017 (4) RCR (Civil) 1009***, the addition should have been to the extent of 25%. The Tribunal has taken age of the deceased to be 40 years. Therefore, addition towards future prospects should have been made to the extent of 25%. As such, total income of the deceased comes out to be (Rs. 6500 X 12) 78,000 + 19,500 (25% future prospects) = Rs.97,500/-.

The Tribunal has made deduction of 1/5th of the income of the deceased towards his personal and living expenses. In terms of the judgment ***Smt. Sarla Verma vs. Delhi Transport Corporation 2009 (3) RCR (Civil) 77,*** where the number of dependent family members is 4 to 6, the deduction should be 1/4th. Therefore, 1/4th of the amount is to be deducted on that count. As such the dependancy of the claimants comes out to be 97,500 – 24,375 = Rs. 73,125/-.

Considering the age of the deceased, the multiplier of 15 has rightly been applied by the Tribunal. Thus, the total amount of compensation comes out to be Rs. 73,125 X 15 = Rs. 10,96,875/-.

The Tribunal has award a sum of Rs. 1 lac under the Head Loss of consortium. However, in view of judgment passed by the Apex Court in ***Civil Appeal Nos. 2410-2412/2023 (@ SLP (C) Nos. 11669-11671/2020), decided on 27.3.2023 titled as Shri Ram General Insurance Co. Ltd. vs. Bhagat Singh Rawat and others,*** the claimants are entitled to Rs.40,000/- under this Head. The Tribunal has awarded a sum of Rs. 1 lac to the claimants under the Head loss of care and guidance to minor children. But no compensation can be awarded under this Head, as per the settled law. Funeral expenses to the tune of Rs.25,000/- have been awarded, when it should have been Rs.15,000/-. No amount for loss of estate has been given. A sum of Rs.15,000/- is awarded to the claimants under that Head. As such, the total compensation comes out to be 10,96,875 + 40,000 + 15,000 + 15,000 = Rs. 11,66,875/-.

The Tribunal has awarded a sum of Rs.14,41,800/-, which is reduced to Rs.11,66,875/-.

Although Learned counsel for the claimants has submitted that the Tribunal has taken the income of deceased on lower side, but I do not find myself in agreement with him on this point, since no cogent or convincing evidence is there on record to show that the deceased was an agriculturist and earning Rs.30,000/- per month. Furthermore, no reason is there to enhance the compensation. Rather it has been reduced keeping in view the detailed discussion above.

No other argument was advanced by either of the counsel.

Therefore, the appeal filed by the Insurance company is allowed partly. The impugned award is modified and the compensation awarded of Rs.14,41,800/- is reduced to Rs.11,66,875/-, payable with interest @ 9% per annum by all the three respondents, jointly and severally. The apportionment of compensation shall be reduced proportionately, however, in the same manner as directed by the Tribunal in the impugned award. The mode of payment shall also remain same.

The cross objections stand dismissed.

(H.S. Madaan)
6.7.2023 **Judge**
chugh

Whether speaking / reasoned Yes / No

Whether reportable Yes / No