

[222] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

[1] FAO-8267-2014 (O&M)
Date of Decision : 24.04.2023

Oriental Insurance Company Limited ...Appellant

versus

Sita Devi and othersRespondents

[2] FAO-8656-2014

Sita Devi and others ...Appellants

versus

Dhirinder Dass and othersRespondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Ashwani Talwar, Advocate and Mr. Sahej Mahajan,
Advocate for the appellant(s) in FAO-8267-2014 and
for respondent No.3 in FAO-8656-2014.

Mr. Dhanpat Rai Singla, Advocate for the claimants.

Mr. Nonish Kumar, Advocate for respondent Nos.6 & 7
in FAO-8267-2014 and for respondent Nos.1 & 2 in FAO-
8656-2014.

B.S. Walia, J. (Oral)

[1] This order shall decide FAO-8267-2014 and FAO-8656-
2014. FAO-8267-2014 has been filed by the Insurance Company,
challenging Award dated 09.07.2014, awarding compensation of
Rs.10,69,500/- to the respondents-claimants on account of death of Gopi
Shah, husband of claimant-wife and father of claimant Nos.2 to 5 on the
ground that the future prospects awarded @ 30% are not admissible.

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[2] FAO-8656-2014 on the other hand has been filed by the claimant-wife and four minor children of the deceased-Gopi Shah, praying for enhancement of compensation by taking into account 40% of the income of the deceased towards future prospects in view of paragraph No.61(iii) of the decision of Hon'ble the Supreme Court in '**National Insurance Company Limited** versus **Pranay Sethis and others**', 2017(4) RCR (Civil) 1009.

[3] Learned counsel for the respondent-Insurance Company does not dispute the claim of the appellants for enhancement of compensation by taking into account 40% of the assessed income of the deceased towards future prospects in view of the decision of Hon'ble the Supreme Court in '**Pranay Sethi's** case (supra) on account of the deceased being 30 years of age nor does he oppose the claim for enhancement of consortium from Rs.25,000/- as awarded to the wife to Rs.40,000/- but states that in view of the decision of Hon'ble the Supreme Court in '**Shri Ram General Insurance Co. Limited** versus **Bhagat Singh Rawat and others**', Civil Appeal Nos.2410-2412/2023 [@ SLP [c] Nos.11669-11671/2020] followed by a Co-ordinate Bench of this court in FAO No.3590 of 2015 in case titled as '**Baljit Kaur and others** versus **Jai Singh and others**', Rs.40,000/- in aggregate is payable to all the claimants on account of loss of consortium instead of Rs.40,000/- individually.

[4] Learned counsel further contends that a sum of Rs.25,000/- awarded on account of funeral expenses and like amount on account of loss of estate is liable to be reduced to Rs.15,000/- on each count in view

(supra).

[5] I have considered the submission of learned counsel.

[6] Admittedly, the husband of claimant-appellant No.1 and father of claimant Nos.2 to 5 was 30 years of age at the time of his death. Income of the deceased assessed @ Rs.5,000/- per month on the basis of minimum wages as applicable for the relevant period of time is not disputed by either of the counsel. Admittedly, on account of deceased being 30 years of age at the time of his death, 40 % of the income of the deceased was liable to be taken into account in terms of Para No.61(iii) of the decision of Hon’ble the Supreme Court in ‘Pranay Sethi’s case (supra) for the purpose of working out the future prospects as against 30% taken into account by the learned Tribunal.

[7] Further as against Rs.25,000/- awarded on account of loss of spousal consortium, a sum of Rs.40,000/- is liable to be awarded in lump sum on account of loss of consortium to all the claimants in view of the decision of Hon’ble the Supreme Court in ‘Shri Ram General Insurance Company Limited’s case (supra). Further as against Rs.25,000/- awarded on account of funeral expenses and loss of estate respectively, a sum of Rs.15,000/- on each count is liable to be awarded in view of the decision of Hon’ble the Supreme Court in ‘Pranay Sethi’s case (supra). Accordingly, in view of the position noted above, compensation as assessed by the learned Tribunal, as assessed by this Court is as under:-

Sr. No.	Head	Amount assessed by Tribunal in Rupees	Amount assessed by this Court in Rupees
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1.	Income of the deceased	5000 per month	Rs.5000/- per month
2.	Future prospects	30% of 5000 = Rs.1500/-	40% of Rs.5000/- = Rs.2000/-
3.	Net Income	5000+1500=6500	5000+2000=7000
4.	Dependency (No. of dependants - 05)	1/4 th of 6500 = 1625 6500-1625=4875	1/4 th of 7000 = 1750 7000-1750=5250
5.	Multiplier	17	17
6.	Compensation awarded	4875 x 12x 17=9,94,500/-	5250 x 12 x 17 =10,71,000/-
7.	Loss of Consortium	25000	40000 in lump sum to all the claimants in view of the decision of Hon’ble the Supreme Court in ‘ <u>Shri Ram General Insurance Company Limited</u> ’s case (supra).
8.	Funeral Expenses	25000	15000
9.	Loss of Estate	25000	15000
10.	Interest	9% per annum	9% per annum
	Total	10,69,500/-	11,41,000/-

[8] Accordingly, in view of the position noted above, the appeal filed by the appellants-claimants (FAO-8656-2014) is *allowed*. As against compensation of Rs.10,69,500/-, the appellants-claimants are entitled to Rs.11,41,000/- in proportion as awarded by the learned Tribunal along with interest @ 9% per annum with effect from date of entitlement till date of payment less payment if any, already made. FAO-8267-2014 filed by the Insurance Company is *dismissed*. Payment, if not already released, be released to the appellants-claimants in FAO-8656-2014 within four weeks from today.

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deposited in their account whereupon the Bank concerned shall convert the same into long term FDR's and will not release the same till the minors attain the age of majority. However, liberty is granted to the guardian of the minors to withdraw interest for day to day expenses of the minors. On the minors attaining majority, the bank is ordered to release the amount in the FDR's to the claimants without any further orders from the Court.

(B.S. Walia)
Judge

24.04.2023
'Rajneesh'

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