

105 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

FAO-2740-2017 (O&M)  
Date of Decision : 21.04.2023

BHARTI AXA GENERAL INSURANCE CO LTD. ...Appellant

Versus

VISHNU & ORS ....Respondents

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

Present : Mr. Rajbir Singh, Advocate for the petitioner.

Mr. K.K. Saini, Advocate for the respondent/claimant  
Nos.1 to 3.

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B.S. Walia, J. (Oral)

[1] It has been brought to the notice of this Court by learned counsel for respondent/claimant No.1 to 3 that in order dated 19.04.2023 his name has inadvertently been mentioned as V.K. Saini instead of K.K. Saini.

Accordingly, the name of learned counsel for the respondent/claimant Nos.1 to 3 in order dated 19.04.2023 be corrected so as to read as K.K. Saini instead of V.K. Saini.

[2] Challenge in the appeal by the Insurance Company is to the award of compensation of Rs.7,00,200/- to the respondent/claimant No.1 to 3 i.e. husband and parents-in-law of the deceased Sonu, aged 23 years on the ground that instead of Rs.2,25,000/- paid on account of conventional heads (i.e. Rs.25,000/- on account of funeral expenses, Rs.1,00,000/- on account of loss of spousal consortium and Rs.1,00,000/-

on account of love and affection), respondent/claimant Nos.1 to 3 are entitled only to Rs.2,000/- on account of loss of estate, Rs.2500/- on account of funeral expenses and Rs.5000/- on account of loss of consortium, besides, instead of multiplier of 18, multiplier of 17 is applicable in view of the II<sup>nd</sup> Schedule to Section 163-A of the Motor Vehicle Act, 1988.

[3] Learned counsel for respondent/claimant Nos.1 to 3 has not been able to controvert the submissions of learned counsel for the appellant qua payment of only Rs.9,500/- under conventional heads and applicability of multiplier of 17 instead of 18.

[4] I have considered the submissions of learned counsel.

[5] Admittedly, the claim petition was filed under Section 163-A of the Motor Vehicles Act, 1988 and as per the II<sup>nd</sup> Schedule to Section 163-A of the Motor Vehicles Act, 1988, in case of age of the deceased upto 25 years, multiplier applicable is 17 whereas the learned Motor Accident Claims Tribunal, Bhiwani applied multiplier of 18. Moreover, as per the II<sup>nd</sup> Schedule to Section 163-A of the Motor Vehicle Act, 1988, Rs.2000/- is payable on account of loss of estate, Rs.2500/- on account of funeral expenses and Rs.5000/- on account of loss of consortium whereas admittedly, learned Motor Accident Claims Tribunal, Bhiwani awarded a sum of Rs.25,000/-, Rs.1,00,000/- and Rs.1,00,000/- respectively on aforesaid counts. No judgment has been cited by learned counsel for the respondent/claimant Nos.1 to 3 to substantiate his claim for maintainability of compensation as awarded by the learned Tribunal.

[6] Accordingly, in view of the position noted above, the appeal is allowed, award is modified and as against multiplier of 18, multiplier of 17 is held applicable and as against award of Rs.25,000/- on account of funeral expenses, Rs.1,00,000/- on account of loss of spousal consortium and Rs.1,00,000/- on account of loss of love and affection, respondent/claimant Nos.1 to 3 are held entitled to Rs.2000/- on account of loss of estate, Rs.2500/- on account of funeral expenses and Rs.5000/- on account of loss of consortium. No amount is payable on account of loss of love and affection in view of the decision of Hon'ble the Supreme Court in *Satinder Kaur @ Satwinder Kaur and Others vs. United India Insurance Co. Ltd.*: Law Finder Doc Id # 1729112.

[7] Since the income of the deceased was assessed at Rs.3300/- per month and deduction of 1/3<sup>rd</sup> as made by the learned Motor Accident Claims Tribunal is not disputed between counsel for the parties, the compensation awarded by the learned Motor Accident Claims Tribunal, Bhiwani of Rs.7,00,200/- stands reduced to **Rs.4,58,300/-**[i.e. Rs.3300-1100 (1/3<sup>rd</sup> of Rs.3300/-)=2200x12x17 = Rs.4,48,800 + Rs.9500 as conventional heads] along with interest @ 9% per annum with effect from the date of filing of the claim petition till realization of the amount. Payment of compensation, if not already made be released to respondent/claimant No.1 to 3 in the proportion as ordered by the learned Tribunal within four weeks from today.

(B.S. Walia)  
Judge

21.04.2023

'Amit'