IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 4421 of 2018 (O&M)
& Cross Objection No. 34 of 2019
Date of decision : 14.3.2023
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Oriental Insurance Company Limited, Chandigarh

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

vs.

Jasbir Kaur and others

................Respondents

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

Present: Mr. Rajneesh Malhotra, Advocate for the appellant-Insurance company

Mr. Gopal Mittal, Advocate for respondents No. 1 and 2-Cross objectors.

Mr. Pritpal Singh Miglani, Advocate for respondent No.3.

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H. S. Madaan, J. (Oral)

Briefly stated, facts of the case are that, on account of death of Sachinpreet Singh, aged about 23 years, engaged in the avocation of agriculture and dairy farming, statedly earning Rs.50,000/- per month, in a motor vehicular accident, which took place on 6.5.2016 at about 8.50 P.M., in the area near petrol pump of village Noorpura, Tehsil Raikot, District Ludhiana, allegedly due to rash and negligent driving of bus bearing registration No. PB-10CS-0856, by respondent

No.1 Mandeep Singh, parents of the deceased, namely, mother -Jasbir Kaur, aged 49 years and father – Darshan Singh, aged 47 years, both residents of Village Toosa, Tehsil Raikot, District Ludhiana, had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'), against respondents – Mandeep Singh – driver, Punjab State Bus Stand Management Co. Ltd., Punjab Roadways Jagraon, District Ludhiana through its Managing Director – owner and Oriental Insurance Company Ltd., Chandigarh – Insurer of offending bus in question.

After contest, the claim petition was accepted by the Motor Accidents Claims Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal') and in terms of award dated 28.2.2018, a compensation of Rs.11,96,400/- was awarded to the claimants, payable by all the three respondents, jointly and severally alongwith interest @ 7.5% per annum from the date of filing of claim petition till the date of actual realisation, besides costs of the petition.

The respondent – Insurance company felt aggrieved by the said award and has approached this Court by way of filing an appeal, notice of which was given to the respondents-claimants, who have put in appearance through counsel and have filed separate cross objections seeking enhancement of the compensation awarded to them by the Tribunal, notice of which has been given to the Insurance company.

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

In the appeal filed by the Insurance company, the two main grounds were taken, that the multiplier should have been used by the Tribunal considering the age of the claimants and not of the deceased and secondly, that the future prospects have been wrongly granted @ 40%.

However, after hearing counsel for the parties, I do not find any merit in both these grounds. As by now, the law is well settled that while calculating the compensation, the age of the deceased is to be taken into consideration and not that of the claimants and in terms of the judgment ***National Insurance Company Limited vs. Pranay Sethi, 2017 (4) RCR (Civil) 1009***, an addition to the extent of 40% is to be made towards future prospects when the deceased was below the age of 40 years. In this case, the Tribunal on the basis of the evidence adduced by the parties, has correctly taken the age of the deceased to be 23 years, considering his date of birth as 24.7.1993, as mentioned in the Aadhaar card. Therefore, the future prospects @ 40% was correctly awarded.

No other ground has been put forward on behalf of the appellant – Insurance company.

Whereas with regard to the cross objections filed on behalf of the respondents – claimants, learned counsel representing them has argued that despite sufficient evidence having brought by the claimants on record that deceased was a skilled plumber and in addition to that he was engaged in the avocation of agriculture and dairy farming, earning Rs.50,000/- per month, the Tribunal has taken a meager amount of Rs.6,000/- per month as his monthly income. He has further contended that at the relevant time, the minimum wages payable to the skilled worker in the State of Punjab were Rs.8,887.52.

Though learned counsel for the Insurance company has contended that the monthly income of the deceased has been rightly assessed by the Tribunal and no enhancement therein is required, but I find that considering the evidence available on the record, the minimum wages payable to a skilled worker in the State of Punjab at the relevant time should be taken into consideration, while assessing the income of the deceased and the amount of Rs.6,000/- per month, so taken by the Tribunal, as monthly income of the deceased is somewhat on the lower side. Therefore, monthly income of the deceased is taken to be Rs.8,888/-. By making an addition of 40% towards future prospects, the amount is worked out to Rs.8,888 + 3555 = Rs.12,443/- .

Considering the fact that the deceased was a bachelor, deduction of 50% is to be made towards personal and living expenses of deceased, leaving the dependancy of the claimants to be Rs. 12,443- 6221.50 = Rs.6221.50 and the annual dependancy comes to Rs.6,221.50 x 12 = Rs.74,658/-.

Taking into view the age of the deceased, multiplier of 18 has been rightly used by the Tribunal. Thus, by applying the same, the total dependency comes out to Rs.74,658 x 18 = Rs.13,43,844/-.

The claimants are entitled to get Rs.15,000/- towards funeral expenses and Rs.15,000/- on account of loss of estate and Rs.40,000/- each under the Head loss of filial consortium. In that way the total compensation works out to be Rs.13,43,844 + Rs.15,000 + Rs.15,000

+ Rs.40,000 + Rs.40,000 = Rs.14,53,844/-, whereas the Tribunal has awarded compensation of Rs.11,96,400/-.

In that way, the compensation is enhanced to Rs.14,53,844/- and difference being (Rs.14,53,844 – 11,96,400) = Rs.2,57,444/-, which would be payable by all the respondents, jointly and severely alongwith interest @ 7.5% per annum from the date of filing of claim petition till actual realization, besides costs of loss throughout. The apportionment of compensation shall be in equal shares to both the claimants .

In that way, the appeal filed by the appellant -Insurance company stands dismissed, whereas the cross objections filed by the respondents-claimants are allowed, partly.

(H.S. Madaan)
Judge

14.3.2023
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Whether speaking / reasoned Yes / No

Whether reportable Yes / No