IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2567-2016(O&M) with
XOBJC-197-2019(O&M)
Reserved on:-19.4.2023
Date of Pronouncement:-29.4.2023

United India Insurance Co. Ltd.

...Appellant

Versus

Sharanjit Kaur and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Gopal Mittal, Advocate
for the appellant.

Mr.Liaqat Ali, Advocate
for respondens No.1 to 3/Cross-objectors.

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H.S. MADAAN, J.

1. Briefly stated, facts of the case are that due to death of Surjit Singh aged about 57 years, working as a Punjabi Lecturer in Government Senior Secondary School, Noorpur Bet, Ludhiana statedly drawing salary of Rs.70,000/- per month, in a motor vehicular accident, which took place on 8.4.2015 at about 8:00 a.m. in the area near Jhamat Bridge, Ludhiana statedly on account of rash and negligent driving of car bearing registration No. PB-10CC-4835 (hereinafter referred to as the offending car) by respondent No.1 Ramanjot Kaur, legal representatives of such deceased, namely his wife Sharanjit Kaur aged about 45 years, daughter Ramneet Kaur aged about 25 years and minor son Manraj Singh aged

about 15 years, all residents of 398-I, BRS Nagar, Ludhiana had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the Act) against respondents i.e. Ramanjot Kaur – driver, Jasmail Singh – owner and Untied India Insurance Company Ltd., Ludhiana – insurer of the offending car before Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as the Tribunal).

2. After contest, the claim petition was allowed by Tribunal vide award dated 27.1.2016 and compensation of Rs.49,57,924/- with interest at the rate of 6% per annum was awarded to the claimants payable by respondents No.1 to 3 jointly and severally.

3. Finding the compensation awarded to be on higher side, the respondent No.3 – insurance company has filed the present appeal before this Court, notice of which was given to the respondents.

4. Respondents No.1 to 3, who happened to the claimants before the Tribunal have put in appearance through counsel and filed cross-objections. As those have been filed quite belatedly after delay of 1106 days, an application under Section 5 of the Limitation Act has been filed seeking condonation of delay in filing of the cross-objections.

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

6. The Tribunal considering the facts and circumstances of the case and in light of the evidence brought on file by the contesting parties has returned a clear finding that the accident in which Surjit Singh had suffered injuries, to which he had succumbed, had been caused on account

of rash and negligent driving of offending car by respondent No.1 Ramanjot Kaur. It being so, the driver, owner and insurance company of the offending car were rightly found to be liable to pay compensation to the claimants, who are legal representatives of the deceased.

7. While calculating the compensation, the Tribunal has taken the age of the deceased to be 57 years and his monthly salary as Rs.67,054/-. The income tax returns Ex.P13 to Ex.P17 furnished by the deceased have been relied upon. Considering such income of the deceased as Rs.67,054/-, 1/3rd of the amount has been deducted towards his personal expenses as Rs.22,351/-, the dependency of the claimants has been worked out to Rs.44,703/- per month, the annual income comes out to Rs.5,36,436/-.

8. The date of birth of the deceased was 22.6.1957 as stated by claimant Sharanjit Kaur in her cross-examination. The accident had taken place on 8.4.2015, therefore the deceased was aged 57 years and 10 months at the time of accident. A Government Teacher usually retires at the age of 58 years, that means the deceased had about 2 months of more service when he had died. Therefore, the Tribunal was justified in not making any addition towards future prospects. However, one factor which escaped attention of the Tribunal was with regard to the payment of income tax. Income tax returns Ex.P15 and Ex.P16, which have been proved in evidence by the claimants themselves go to show that the deceased was paying income tax to the tune of Rs.64,729/- to make it round figure Rs.65,000/-. That amount is to be deducted from the income of the deceased. Doing that, the annual income of the deceased comes out

to Rs.471436(536436 – 65000).

9. The Tribunal has used multiplier of 9. Though the deceased would have retired within a period of 2-3 months and would not have continued receiving that much amount as salary; nevertheless considering that he would have received pension and other benefits after retirement, if the amount is taken as such and multiplier of 9 is applied, the total dependency comes out to Rs.42,42,924/-.

10. Under the conventional heads, the Tribunal has awarded Rs.1 lakh under head love and affection; Rs.10,000/- were awarded to the claimant No.1 under the head consortium; further Rs.10,000/- for funeral expenses and Rs.10,000/- for loss of estate were also awarded to the claimants.

11. However, as per the latest judgment ***Shri Ram General Insurance Co. Ltd. Versus Bhagat Singh Rawat & Ors., Civil Appeal Nos.2410-2412/2023 [@ SLP[C] Nos.11669-11671/2020]***, the claimants are to be granted a sum of Rs.40,000/- in total under the head loss of consortium. The claimants are further entitled get Rs.15,000/- as funeral expenses and Rs.15,000/- for loss of estate.

Doing that the compensation comes out to be Rs.43,12,924/- (42,42,924 + 40,000 + 15,000 + 15,000).

12. Thus the total amount of compensation comes to Rs. 43,12,924/-

13. The Tribunal has awarded an amount of Rs.49,57,924/-. Therefore, the appeal filed by the Insurance company is allowed partly and compensation awarded to claimant is reduced from Rs. 49,57,924/- to

Rs.43,12,924 /-. The interest granted and other terms and conditions for payment of compensation shall remain the same as given in the award.

14. The cross-objections have been filed quite belatedly after a period of 1106 days i.e. more than 3 years. No cogent and convincing reason for such gross delay has been explained. Therefore, the cross-objections are bound to be dismissed being time barred. Even on merits also, I find that the compensation awarded by the Tribunal has been found to be on higher side and it has been reduced to Rs.43,12,924 /-, which is fair and just.

15. In view of the above discussion, cross-objections filed on behalf of the claimants being devoid of merit stand dismissed.

Since the appeal filed on behalf of the insurance company is allowed partly and cross-objections filed on behalf of the claimants stand dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

29.4.2023 **(H.S.MADAAN)**
Brij **JUDGE**

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No