2024:PHHC:002674

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-4542-2019 (O&M)
Date of Decision : 10.01.2024

NATIONAL INSURANCE COMPANY LTD. .... Appellant

VERSUS

MANJU & ORS. .... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Radhika Suri, Senior Advocate with
Mr. Neeraj Khanna, Advocate for the appellant.

Mr. Mohit Rathee, Advocate for respondents No.1 to 5.

ALKA SARIN, J. (ORAL)

1. This is an appeal preferred by the appellant-Insurance Company challenging the award dated 02.03.2019 passed by the Motor Accident Claims Tribunal, Sonipat (hereinafter referred to as 'the Tribunal').

2. Since the facts, as recorded in the impugned award passed by the Tribunal are not in dispute, the same are not being reproduced herein for the sake of brevity.

3. The sole argument raised by the learned counsel for the appellant is qua the quantum of compensation awarded. Learned counsel for the appellant would contend that the income of the deceased from business was assessed as Rs.4,51,405/- on the basis of the Income Tax Returns. It is further the contention of the learned counsel for the appellant that the entire income from the business could not have been taken as the income of the deceased since the business is still running. Learned counsel for the

appellant would further contend that the income tax ought to have been deducted after adding future prospects.

4. Per contra, learned counsel for respondents No.1 to 5 has contended that the claimants have produced the Income Tax Returns (Exhibits P-5 and P-6) and a person had also been examined from the Income Tax Department who stepped into the witness box as PW-3 to prove the said Income Tax Returns. Learned counsel for respondents No.1 to 5 would further contend that neither any evidence was led to the contrary by the appellant herein nor any argument was raised before the Tribunal to the effect that the entire income could not have been treated as income of the deceased. It is further the contention of the learned counsel for respondents No.1 to 5 that the calculation has rightly been made by the Tribunal, which calls for no interference.

5. Heard.

6. In the present case learned counsel for the appellant has argued that the entire income from the business had been taken as income of the deceased, however, only a portion of the income ought to have been taken as the business is still running. On a pointed query by this Court as to whether this argument was raised before the Tribunal and whether any evidence was led, learned counsel for the appellant has candidly admitted that neither any argument was raised nor any evidence was led to this effect. It has also been candidly admitted by the learned counsel for the appellant that no suggestion was given to PW-2/widow of the deceased qua the business being still run by her. In the absence of any evidence and in the absence of even a

suggestion to the widow of the deceased, when she stepped into the witness box as PW-2, qua the business being run by her, the argument of the learned counsel for the appellant cannot be accepted. No fault can be found with the calculations as made by the Tribunal. The compensation has rightly been assessed by the Tribunal.

7. In view of the above, I do not find any merit in the present appeal and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

10.01.2024 **(ALKA SARIN)**
Aman Jain **JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO