IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

313 **XOBJC-143-CII-2018 in/and**
FAO-2173-2018 (O&M)
Date of Decision : 03.12.2024

United India Insurance Co. Ltd. ....Appellant

VERSUS

Girdhavri Devi and Others ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ram Avtar, Advocate for the appellant.

Mr. Sandeep Kotla, Advocate
for the cross-objectors/respondent Nos.1 and 2.

ALKA SARIN, J. (Oral)

1. Present appeal has been filed by the Insurance Company challenging the quantum of compensation awarded to the claimants by the Motor Accident Claims Tribunal, Hisar (hereinafter referred to as the 'Tribunal') vide award dated 07.12.2017 while the cross-objections being XOBJC-143-CII-2018 have been filed by the claimants (respondent Nos.1 and 2 herein) seeking enhancement of the compensation awarded by the Tribunal on account of death of their son, namely, Rajbir (hereinafter referred to as the 'deceased').

2. Since the facts, as recorded in the impugned award passed by the Tribunal, are not in dispute, the same are not being adverted to for the sake of brevity. The Tribunal in the present case awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.15,000/-
2	Future prospects @ 40%	[Rs.15,000 + 6000] = Rs.21,000/-
3	Annual income	[Rs.21,000 x 12] = Rs.2,52,000/-
4	Deduction – 1/3rd	[Rs.2,52,000 - Rs.84,000] = Rs.1,68,800/-
5	Multiplier – 18	[Rs.1,68,000 x 18] = Rs.30,24,000/-
6	Funeral expenses	Rs.15,000/-
7	Loss of estate	Rs.15,000/-
	Total Compensation	**Rs.30,54,000/-**
	Interest	**8% per annum**

3. Learned counsel for the Insurance Company has made twofold arguments. Firstly, that the income of the deceased has wrongly been assessed as Rs.15,000/- per month and that the documents, which are stated to have been signed by the Chartered Accountant, were actually not signed by the Chartered Accountant as admitted by PW-2 in his cross-examination. It is further the contention that the deceased in the present case was a bachelor and instead of applying 50% deduction towards personal expenses of the deceased the Tribunal has applied a deduction of 1/3rd.

4. *Per contra* learned counsel for the cross-objectors/claimants would contend that the amount awarded under the head loss of estate and funeral expenses is not in consonance with the law laid down by the Hon'ble Supreme Court and further that no amount has been awarded towards loss of consortium. In support of his contention, he has relied upon judgments of the Hon'ble Supreme Court in cases of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18**

SCC 130] and **N. Jayasree & Ors. vs. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

5. Heard.

6. In the present case the argument of learned counsel for the Insurance Company that income of the deceased has wrongly been assessed deserves to be rejected. The deceased was working as a Munshi at M/s Kuleri Bricks Company, Landhari, District Hisar and was getting a salary of Rs.15.000/-. In order to prove the income of the deceased the cross-objectors/claimants examined PW-2 Rajender Singh who stated that the deceased was working at the Bricklin and was getting a salary of Rs.15,000/- per month and in addition to the salary he was also getting Rs.200/- per day as perks. The witness tendered in evidence a copy of the balance-sheet of his Brick Kiln containing salary details of the staff as Ex.P1 and also tendered a copy of the ledger of the Brick Kiln as Ex.P2 in which month-wise salary details of the deceased have been mentioned as Rs.15,000/-. No evidence was led to the contrary by the Insurance Company to rebut the said fact. Infact, even before this Court except for stating that the balance-sheet was not signed by the Chartered Accountant, learned counsel for the Insurance Company has not been able to point out to any contrary evidence having been led by them to show that the balance-sheet or the ledger of the Brick Kiln were false and fabricated documents.

7. In view of the above, there is no ground to disbelieve the balance-sheet produced on the record as Ex.P1 and the ledger of the Brick

Kiln produced on record as Ex.P2. In view thereof, the income of the deceased as assessed by the Tribunal is upheld.

8. The argument of learned counsel for the Insurance Company that the Tribunal has wrongly applied a deduction of 1/3rd deserves to be accepted. The deceased in the present case was a bachelor and in the absence of any evidence to the contrary that the parents were totally dependent on the deceased, as per the law laid down by the Hon'ble Supreme Court in case of **Pranay Sethi** *(supra),* a deduction of 50% ought to have been applied. The Tribunal has rightly made an addition of 40% towards loss of future prospects and has correctly applied a multiplier of '18', however, the amounts awarded under the head loss of estate and funeral expenses are deserved to be enhanced to Rs.18,000/- (Rs.15,000+20% increase) each as per the law laid down by the Hon'ble Supreme Court in cases of **Pranay Sethi** *(supra),* **Magma General Insurance Company Limited** *(supra)* and **N. Jayasree** *(supra).* Further, no amount has been awarded under the head 'loss of consortium'. The claimants would also be entitled to Rs.48,000/- (Rs.40,000+20% increase) each towards loss of consortium.

9. Accordingly, the reworked compensation is as under :

Sr. No.	**Heads**	**Compensation Awarded**
1	Monthly Income	Rs.15,000/-
2	Annual Income	[Rs.15,000 x 12] = Rs.1,80,000/-
3	Deduction – 50%	[Rs.1,80,000 – 90,000] = Rs.90,000/-
4	Future Prospects - 40%	[Rs.90,000 + 36,000] = Rs.1,26,000/-
5	Multiplier – 18	[Rs.1,26,000 x 18] = Rs.22,68,000/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of consortium (i) Filial	[Rs.48,000 x 2] = Rs.96,000/-
	Total	**Rs.24,00,000/-**

10. The rest of the award as regards interest and apportionment of the compensation is maintained.

11. In view of the above discussion, the appeal being FAO-2173-2018 filed by the Insurance Company and the cross-objections being XOBJC-143-CII-2018 filed by the claimants stand disposed off in the above terms. The award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
03.12.2024 **JUDGE**
jk

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