
(2014) 10 P&H CK 0014

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 6427 of 2012 and X Objection No. 117-CII of 2014

National Insurance Company Limited

APPELLANT

Vs

Sudesh Rani and Others

RESPONDENT

Date of Decision : 16-10-2014

Acts Referred:

Citation : (2015) 178 PLR 233

Hon'ble Judges : Rekha Mittal, J

Bench : Single Bench

Advocate : Ashwani Talwar and Satpal Dhamija, Advocate for the Appellant;
Ashwani Arora, Advocate for the Respondent;

Judgement

Rekha Mittal, J.

1. By way of this order, I intend to dispose of FAO No. 6427 of 2012 titled National Insurance Company Limited v. Sudesh Rani and others and cross-objections No. 117-CII of 2014, preferred by the claimants against award dated 08.09.2005, passed by the Motor Accident Claims Tribunal, Chandigarh, (for short "the Tribunal") in regard to death of Sushil Kumar, in a motor vehicular accident on 26.04.2004. The learned Tribunal assessed loss of dependency at Rs. 7268/- per month, deducted 1/3rd towards personal expenses, adopted multiplier of 16 to assess loss of dependency to the tune of Rs. 13,95,456/-. Another amount of Rs. 2000/- has been awarded for funeral expenses and Rs. 5,000/- for loss of consortium to the widow has been allowed, making a total amount of Rs. 14,02,456/- rounded off to Rs. 14,00,000/-.

2. Counsel for the cross-objectors/respondents would submit that the learned Tribunal has allowed deduction to the extent of 1/3rd in place of 1/4th. Compensation under conventional heads is too inadequate and requires enhancement.

3. Counsel for the Insurance Company (appellant) contends that the income

assessed by the Tribunal is on higher side and liable to the reduced.

4. Sudesh Rani (widow), Monika, Deepak and Gurdeep (minor children) and Shanti Devi (mother) of the deceased preferred the application for compensation and all the applicants have been held to be dependent upon earning of the deceased. 5. Keeping in view the number of dependents when examined in the light of ratio laid down in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , deduction to the extent of 1/4th for personal and living expenses of the deceased is to be allowed. After allowing deduction to the extent of 1/4th, loss of dependency comes to Rs. $8176 \times 12 \times 16 =$ Rs. 15,69,792/-.

5. Sudesh Rani, widow of the deceased is awarded an amount of Rs. 1,00,000/- towards loss of consortium and love & affection. Monika, Deepak and Gurdeep-three minor children of the deceased are allowed an amount of Rs. 2,25,000/- towards loss of love and affection. Similarly, the mother of the deceased shall be entitled to an amount of Rs. 50,000/- towards loss of love and affection. The claimants/cross objectors shall be entitled to an amount of Rs. 25,000/- each for funeral expenses and last rites and loss of estate. The total amount of compensation payable to the respondents/claimants is calculated at Rs. 15,69,792+ Rs. 3,75,000 + Rs. 50,000/- = Rs. 19,94,792/- and enhanced amount of compensation is Rs. 19,94,792 - Rs. 14,00,000 = Rs. 5,94,792/-.

6. The enhanced amount of compensation shall be payable with interest @7.5% per annum from the date of petition till realization. However, in case the Insurance Company deposits the amount-within a period of 45 days in the Tribunal, the enhanced amount shall carry interest @ 6% per annum.

7. Out of enhanced amount, Rs. 50,000/- shall be payable to mother of the deceased, namely, Shanti Devi and the remaining amount shall be shared by widow and children of the deceased in equal shares.

8. The amount falling to the share of the minor-claimants shall be deposited in the Fixed Deposit Receipts in a nationalized Bank payable to them on attaining the age of majority. The amount of interest accruing on the FDRs shall be payable to the guardian of the minors to meet expenses on their education and livelihood.

9. Counsels for the appellant have raised a contention that statutory liability in regard to payment of income tax is required to be taken into consideration for computing compensation. There is nothing on record to suggest that the deceased paid any income tax during his life time. In case, liability of payment of income tax is to be deducted for computing compensation, in my considered opinion, benefit thereof must pass over to the concerned Government department and cannot be allowed to enure to the benefit of the Insurance Company. Therefore, it would be expedient in the interest of justice to direct that the Insurance Company, by taking into consideration total compensation assessed and in the light of provisions of the Income Tax Act may deduct tax at

source (TDS) from compensation payable to the claimants and thereafter the claimants may seek refund, if any, in accordance with law. For the reasons aforesaid, the appeal filed by the Insurance Company is dismissed and the cross objections preferred by the claimants/respondents are allowed in the aforesaid terms.