(2012) 05 P&H CK 0124

In the Punjab And Haryana At Chandigarh

Case No : F.A.O No. 3908 of 2010 (O and M)

The New India Assurance Company Ltd. APPELLANT

Vs

Smt. Narma Devi and Others RESPONDENT

Date of Decision : 23-05-2012

Acts Referred:

Citation : (2012) 05 P&H CK 0124

Hon'ble Judges : K.C. Puri, J

Bench : Single Bench

Advocate : R.K. Sharma, for the Appellant; R.S. Mamli, Advocate, for Respondents No. 1 and 2 and Mr. Sunil Saharan, Advocate, for Respondents No. 3 and 4, for the Respondent

Judgement

K.C. Puri, J.—This is an appeal directed by the Insurance Company against the Award dated 10.12.2009 passed by Shri Sudhir Jiwan, Motor Accident Claims Tribunal (Fast Track Court), Hisar, vide which the claim petition was accepted and a sum of Rs.8,28,150/- was granted. The Tribunal has assessed the income of deceased as Rs.6000/-per month. 1/3rd amount was deducted in respect of personal expenses of the deceased. The age of deceased was 26 years and multiplier of 17 was applied. In this manner, the amount of compensation was calculated as Rs.8,16,000/-. The claimants were also held entitle to claim Rs.5000/-towards funeral expenses and Rs.7150/-towards medical expenses. In this manner, a total sum of Rs.8,28,150/-was granted to the claimants as compensation.

2. Feeling dissatisfied with the above said Award dated 10.12.2009, the Insurance Company has preferred the present appeal.

3. Learned counsel for the appellant has submitted that the income of deceased to the extent of Rs.6000/- per month has been assessed on higher side.

4. I have considered the said submission but do not find any force in the same.

5. The Tribunal has rightly assessed the income of deceased as Rs.6000/-per month.

6. Learned counsel for the appellant has further submitted that the claimants are parents of deceased and deduction of 1/3rd amount in respect of personal expenses of the deceased has been wrongly made and the same should be 50%. To support this contention, he has relied upon authority "Sarla Verma and others vs. Delhi Transport Corporation and another" 2009 (3) RCR (Civil) 77.

7. In reply to the above said submissions, learned counsel for claimants/ respondents No.1 and 2 has submitted that whole of the family was dependent upon the deceased and in view of Sarla Verma''s case (supra), 1/3rd amount has been rightly deducted in respect of personal expenses of the deceased. It is further contended that even in some cases, 1/10th has been deducted in respect of personal expenses of the deceased.

8. I have considered the submissions made by both the sides and have gone through the records of case.

9. Prithvi Singh father of the deceased while appearing as his own witness has stated that his son was 26 years of age and used to earn Rs.8500/-per month by doing the work of tailoring. He was contributing his all income towards his family. The claimants have further stated that they were totally dependent upon the deceased and now they have no source of their livelihood.

10. However, from the perusal of cross-examination of claimant, it is revealed that he has stated that he owns 3 acres of land and has two more sons and two daughters. His one son has expired. His daughters are married. He has further stated that deceased Dharampal was handicapped by both the legs by birth. In these circumstances, the dependency taken to the extent of 1/3rd is against Sarla Verma''s case (supra). So, the dependency is taken as one half in view of Sarla Verma''s case (supra). The monthly dependency comes to Rs.3000/-per month. The yearly dependency comes to Rs.36,000/-.

11. The other contention raised by learned counsel for the appellant is that multiplier of 17 is on higher side. According to claim petition itself, the age of Narma Devi was 45 years and claimant Prithvi Singh was 48 years of age. The multiplier should have been applied by taking into consideration the age of parents of deceased.

12. Learned counsel for the respondents-claimants has submitted that as per Sarla Verma''s case (supra), the age of deceased has to be taken into consideration. So, multiplier of 17 has been rightly applied.

13. I have considered the said submissions.

14. The Hon''ble Apex Court in authority "Oriental Insurance Co. Ltd. vs. Syed Ibrahim and others" 2007 ACJ 2816, has held that the age of parents is relevant factor for determining the multiplier. So far as Sarla Verma''s case (supra) is

concerned, there is no specific discussion in that ruling regarding multiplier in case the deceased is a bachelor.

15. So, keeping in view Oriental Insurance Company Limited''s case (supra), the multiplier of 14 is applicable keeping in view the age of mother. So, by applying the multiplier of 14, the claimants are held entitle to claim Rs.5,04,000/- (36000x14). Another sum of Rs.20,000/-stands allowed on account of loss of estate, funeral expenses, transportation charges etc. Another sum of Rs.7150/- has already been allowed by the Tribunal in respect of medical expenses. That amount also stands maintained. So, the claimants are held entitle to claim Rs.5,31,150/-The said amount shall carry the same rate of interest as ordered by the Tribunal. The liability to pay the amount shall also remain the same as ordered by the Tribunal.

16. Learned counsel for the appellant has stated that Award amount has already been paid to the claimants. So, the amount of Rs.25,000/- deposited before this Court be refunded to the appellant. In these circumstances, the said amount of Rs.25,000/- is ordered to be refunded to the appellant.

Disposed of.