(2011) 01 P&H CK 0113

In the Punjab And Haryana At Chandigarh

Case No : FAO No. 1350 of 1989 and X Objection No. 14 CII of 1990

United India Insurance Co. APPELLANT

Vs

Smt. Kanta Devi and Others RESPONDENT

Date of Decision : 06-01-2011

Acts Referred:

Citation : (2011) 01 P&H CK 0113

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Judgement

K. Kannan, J.—The appeal is by the insurance company challenging the liability cast on it in a case where the insurance company had proved by the examination of witness from the licencing authority that a copy of the licence produced before the Court was not genuine and that licence was not valid. The Tribunal held that even if the licence was not valid, the insurance company shall have to still take responsibility for the same. The law is fairly well settled now through the decision by the Hon''ble Supreme Court in National Insurance Co. Ltd. Vs. Swaran Singh and Others, , that the liability of the insurer shall be only to satisfy the claim of the claimants and will have a right of recovery against the owner and the driver. I will, therefore, hold that a liability that can be cast through the award shall be with the right granted to the insurance company to recover the same against the owner-insured. I would accord the same right and allow the appeal of the insurance company to the above extent.

2. There are cross-objections filed at the instance of the claimants for enhancement of compensation. The deceased was an income tax Assessee and the Income tax return filed in the year 1986-87 before his death showed that he had income of Rs. 28,048/-and he had also income of Rs. 3000/-from agricultural operations. The document shows that he paid tax of Rs. 490/-. The Tribunal had only taken Rs. 20,000/-as income per year. I would take the income as established through the document, namely, the gross income minus tax as Rs. 30,558/-and provide for deduction of 1/3rd for personal expenses and take the

remaining, namely, Rs. 20,372/-as contribution to the family per year. I would adopt a multiplier of 10 and hold the loss of dependency at Rs. 2,03,720/-. I will also add Rs. 5000/-towards loss of consortium to the wife and Rs. 5000/-towards loss of estate and Rs. 2500/-as funeral expenses and hold the amount payable to the claimants as Rs. 2,16,220/-. The Tribunal has already awarded Rs. 1,33,000/- and the amount in excess over what has been determined by the Tribunal shall attract interest @ 6% from the date of petition till the date of payment.

3. The entitlement of the claimants in the manner of apportionment and the liability shall be in the manner as determined by the Tribunal, but subject to modification made in the appeal as mentioned above. The X-objections are disposed of in the above terms.