

In the High Court of Punjab and Haryana at Chandigarh

FAO- No. 5566 of 2017(O&M)
Date of Decision: 31.8.2017

Cholamandlam MS General Insurance Company Limited

---Appellant

versus

Geeta Rajora and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Punit Jain, Advocate
for the appellant

Rekha Mittal, J.

The present appeal directs challenge against award dated 15.3.2017 passed by the Motor Accidents Claims Tribunal, Bathinda (in short 'the Tribunal') whereby compensation has been awarded in regard to death of Sanjay Kumar in a motor vehicular accident that took place on 10.9.2015.

Counsel for the appellant would inform that the appeal has been preferred by the insurance company to assail quantum of compensation awarded by the Tribunal.

The Tribunal has assessed monthly income of the deceased at Rs. 13,950/-, added 50% towards future prospects, deducted 1/4th for personal expenses and applied multiplier of 17 to compute loss of dependency to the tune of Rs. 32,01,576/-. In addition, an amount of Rs. 1,00,000/- for loss of consortium to the widow, Rs. 3,00,000/- for loss of

love and affection and security to two children and love and affection to the mother and Rs. 25,000/- for funeral and other expenses has been awarded making total compensation to Rs. 36,26,576/- (rounded off to Rs. 36,27,000/-).

Counsel for the appellant has assailed quantum of compensation by making three fold submissions. The first submission made by counsel is that the Tribunal has allowed benefit of increase in income for future prospects though the matter in this regard is pending consideration before a Larger Bench of Hon'ble the Supreme Court of India in view of reference made in *National Insurance Co. Limited vs. Pushpa*.

The second submission made by counsel is that compensation for loss of love and affection to the children and mother to the tune of Rs. 3 lakhs is on higher side. In addition, it is argued that the Tribunal has allowed payment of interest on the entire amount of compensation whereas there should not be any interest payable on the income added towards future prospects. For this purpose, he has referred to judgment of Hon'ble the Supreme Court of India **R.D.Hattangadi vs. M/s Pest Control (India) Private Limited** AIR 1995 (SC) 755.

I have heard counsel for the appellant, perused the paper book particularly the award dated 15.3.2017.

Sanjay Kumar aged less than 30 years unfortunately died in a motor vehicular accident leaving behind his young widow, two minor children aged about 9 and 8 years and mother Santra Devi. The Tribunal has assessed his income at Rs. 13,950/- on the basis of income tax returns and relevant documents produced by a witness from

the Income Tax Department, Faridkot. The deceased was a businessman and in the last income tax return filed by him, his income is shown to be Rs. 1,67,390/- per annum. It is difficult to accept that had the deceased remained alive, he would not have made progress in his business particularly in the circumstances that he had a family of four to look after. Under the circumstances, the mere fact that a reference is pending before Hon'ble the Apex Court is not sufficient to deny benefit of increase in income for future prospects till the judgment in *Rajesh and others vs. Rajbir Singh and others 2013(3) RCR(Civil) 170* is varied or set aside.

The deceased left behind one daughter and a son born on 25.2.2006 and 24.2.2007 respectively. Both the children were less than 10 years of age when they lost their father. No amount of money may be sufficient to compensate the children for untimely loss of their father depriving them of his company, guidance, care and assistance for settlement in their lives. The Tribunal has not awarded any compensation for loss of estate even though the deceased was a businessman and an income tax assessee. In view of the above, I do not find any reason to interfere in compensation qua loss of love and affection and security to children as well as loss of love and affection to the mother.

Another submission made by counsel for the appellant is

with regard to allowing interest on the amount of increase in income for future prospects is misconceived and liable to be rejected. In **R.D.Hattangadi's case (supra)**, Hon'ble the Apex Court in para 18 of the judgment has held that the High Court should have clarified that the interest shall not be payable over the amount directed to be paid to the appellant in respect of future expenditures under different heads. In the said case, Hon'ble the Court was dealing with an injury case and some compensation was awarded by the Court with regard to some expenditure to be incurred in future. As such, observations made in Para 18 of the judgment do not support case of the Insurance Company.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine. The statutory amount of Rs. 25,000/- deposited in this Court be remitted to the Tribunal for payment to the claimant.

(Rekha Mittal)
Judge

31.8.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No