



FAO-5004-2024 (O&M)

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(127)

FAO-5004-2024 (O&M)
Date of Decision:-21.11.2024

United India Insurance Company Limited

.....Appellant

Versus

Prameshawari and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. Sidhant Mehra, Advocate for the appellant.

ALOK JAIN, J. (Oral)

CM-19086-CII-2024

1. The present application has been filed under Section 5 of the Limitation Act for condonation of delay of 02 days in filing the appeal.

2. For the reasons recorded in the application, the same stands allowed and the delay of 02 days is hereby condoned.

FAO-5004-2024 (O&M)

1. The present appeal arises out of the award dated 22.07.2024, whereby, the Tribunal has allowed the claim petition and awarded the compensation to the appellant.

2. The short issue raised in the present appeal is that the income of the deceased has been taken on the DC rates applicable at the time of the accident, whereas, contrary to this, the counsel for the appellant has



FAO-5004-2024 (O&M)

2

submitted that the income of deceased ought to have assessed as per the Minimum Wages fixed by the State Government. Learned counsel for the appellant has relied upon the judgments passed by the Co-ordinate Bench of this Court in the case of ***“United India Insurance Company Limited Vs. Preeti and others”*** in ***FAO No. 799 of 2018 (O&M)*** and in the case of ***“Shri Ram General Insurance Company Limited and others Vs. Beant Kaur and others”*** in ***FAO No. 2110 of 2016 (O&M)***, the relevant para upon which the reliance was placed by the learned counsel for the appellant is reproduced as under:

“15. It has been held in a plethora of judgments by the Hon'ble Supreme Court that it is the duty of the tribunal/Court to award 'just compensation'. Motor Vehicles Act is admittedly a beneficial legislation, therefore to circumscribe the scope of assessment of income of the deceased/injured to the minimum wages as may be notified under the Minimum Wages Act would not be justified. Needless to say, assessment of income in cases where no specific documentary evidence is led in support of the claim, such assessment would be dependent upon the facts and circumstances of each case. There may be instances where oral evidence alongwith other supporting evidence on record may inspire confidence. There has to be a sound evaluation of the oral evidence and supporting circumstances in the factual matrix of each particular case. The Tribunal/Court while keeping in view the minimum wage fixed under the Minimum Wages Act as the basic criterion at the outset would proceed to determine whether income of the deceased/injured is to be



FAO-5004-2024 (O&M)

3

assessed at any higher level keeping in view the evidence on record. This in my considered view, would be the correct approach to follow in such cases.”

3. Learned counsel for the appellant further submits that in the absence of any cogent evidence brought in by the claimants, the Tribunal fell in error in holding that the claimants were entitled for the claim, on the basis of the income of deceased that too as per the DC rate and not on the basis of the minimum wages applicable in the State at that time of accident which were amounting to Rs. 9,024/- per month and the Tribunal has taken the DC rate of Rs. 14,610/- per month.

4. Heard learned counsel for the appellant at length and considered the judgments relied upon by him, however, the settled principle of law is that the income of the deceased has to be assessed by the evidence available on record and it was a positive case of the claimants that the deceased was running a Confectionery and Tea stall under the name and style of “Pardeep Confectionery and Tea Stall” near Ansal City Gate, NH-1, Karnal, which demonstrates that he was not an unskilled labour or even if it has to be presumed that he was unskilled then also the DC rates of the specific area have been rightly applied.

5. The question to be adjudicated is as to whether the learned Motor Accident Claims Tribunal (MACT) had correctly computed the income of the deceased on the basis of DC Rates applicable in the region or it should have been computed under the Minimum Wages Act, as the two rates were far apart. To address this issue, it is important to observe the



nature, basis, and applicability of both DC Rates and the minimum wages as prescribed under the Minimum Wages Act.

6. DC rate being non-statutory wage rates, are determined by the District-level committees headed by Deputy Commissioners. These rates are used as reference in terms of wages paid for an unskilled, semi-skilled, and skilled category of workers and get governed by:

i. Principles of Minimum Wages.

ii. District-specific factors, including the cost of living and availability of labour, economic conditions, industrial needs, the type of work prevailing in a district, etc.

7. The ***Punjab Government, Finance Department Instructions No. 7004-F-41/60571 (FIN-GEN), dated 21.11.1941***, which regulates DC Rates in Punjab and Haryana and the DC rates are mainly designed to offer reasonable remuneration for labour in government-undertakings, mostly on a contractual basis. The rates are reviewed periodically, usually every year since then, considering inflation and cost of living increments occurs during the year. Unlike Minimum Wages Act-statutory wages, DC rates don't apply uniformly over all districts. They vary drastically within a state according to local conditions. This is also indicative as a reason for absence of any specific formula for commutation or scientific methodology in arriving at these rates.

8. DC rates classify the employees into different categories based on their skills, experience, and nature of job. For instance, as the present



FAO-5004-2024 (O&M)

5

case is of Karnal, Haryana, therefore the following categorization prevalent at the Karnal is reproduced as under:

1. *Category 1: Unskilled labour*
2. *Category 2: Semi-skilled labour*
3. *Category 3: Other manpower categories*
4. *Category 4: Machinery/Transport Operators*
5. *Category 5: Part-Time Staff (Sweepers, Malis, Chowkidars, Dak Runners)*
6. *Category 6: Karnal Sugar Mill Staff (Special Category)*

9. On the other hand, the Minimum Wages Act, 1948 aims to prevent exploitation of workers by ensuring fair compensation. It makes it mandatory for employers in scheduled industries, factories, and establishments to pay minimum wages fixed by the Central or State Governments. The rates are periodically revised based on skill levels, such as unskilled, semi-skilled, and skilled workers. Unscheduled industries are generally exempt from its provisions. The preamble of the Minimum Wages Act, 1948 is important to determine the purpose of the Act and the same is reproduced as under:

“An Act to provide for fixing minimum rates of wages in certain employments. WHEREAS it is expedient to provide for fixing minimum rates of wages in certain employments;”

9.1 Section 5 of the 1948 Act prescribes two methods for fixation/revision of minimum wages i.e. Committee method and Notification method, the provision is reproduced as under:



“5. Procedure for fixing and revising minimum wages.

(1) In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act or in revising minimum rates of wages so fixed, the appropriate Government shall either-

(a) appoint as many committees and sub-committees as it considers necessary to hold enquiries and advise it in respect of such fixation or revision, as the case may be, or

(b) by notification in the Official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration.

(2) After considering the advice of the committee or committees appointed under clause (a) of sub-section (1), or as the case may be, all representations received by it before the date 'Specified in the notification under clause (b) of that sub-section, the appropriate Government shall, by notification in the Official Gazette, fix, or, as the case may be, revise the minimum rates of wages in respect of each schedule employment, and unless such notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue:

Provided that where the appropriate Government proposes to revise the minimum rates of wages by the mode specified in clause (b) of sub-section (1), the appropriate Government shall consult the Advisory Board also.”

10. The Minimum Wages Act, 1948, neither define "minimum wages" nor does it lay down any criteria or standards for fixation of



minimum wages. However, the minimum rates of wages for scheduled employments in the central sphere were revised on the basis of two main sources:

1. **Indian Labour Conference, 1957**

The guidelines for determining minimum wages were made during the Indian Labour Conference. The criteria included:

- a) *Consumption Needs: 3 consumption units per working man.*
- b) *Caloric Intake: Minimum food requirement of 2700 calories a day for an average adult Indian.*
- c) *Clothing: 72 yards clothing annually per family.*
- d) *Housing: Rent equivalent to minimum area prescribed under the Government's Industrial Housing Scheme.*
- e) *Other miscellaneous expenditure: Fuel, lighting etc. amounting to 20% of the total minimum wage.*

2. **Supreme Court Judgment in Reptakos & Co. vs. Its Workers (1992)**

The Hon'ble Supreme Court built upon the 1957 norms by adding further criteria to take into account an appropriate standard of living. The court ruled that the following considerations must comprise 25% of the minimum wage:

- ♦ *Children's Education*
- ♦ *Medical Needs*
- ♦ *Recreation, including festivals and ceremonies*
- ♦ *Provisions for old age and social obligations, such as marriage.*



These benchmarks, though not codified in the Act, have enormously affected the fixation and periodic revision of minimum wages, making sure they meet the basic requirements and welfare of workers.

11. A comparative analysis of the minimum wages rate and the DC rates notified by the competent authority though operate in a different field but with a common intention to ensure a fair recompense. In a situation where compensation has to be awarded and it is proved that a deceased was earning a living in a particular city then the DC rates would generally tend to give a better picture of the earning capacity of the deceased. While the Minimum Wages Act gives statutory guidelines ensuring fair wages in scheduled industries, the DC rates tend to emerge as a more region-specific and realistic benchmark for assessing income in diverse, informal, and localized employment scenarios. Therefore, even though both aim to ensure fair recompense, a comparison reveals that DC Rates usually provide a more accurate reflection of the earning capacity of the deceased in motor accident cases due to their locality-oriented applicability and practical value. The key points that give a competitive edge to DC rates while calculating in such cases are as follows:

i) DC Rates are tailored to be in tune with the local economic conditions, and they are fixed after considering factors like the cost of living, availability of labour, and district-specific industrial requirements, which makes them a more realistic benchmark for wage comparison within a region. The Minimum Wages Act, on the other hand, provides uniform



FAO-5004-2024 (O&M)

9

statutory wages, but these may not adequately capture regional differences vis-à-vis informal employment.

ii) DC Rates are also different as compared to Minimum Wages Act, in which only scheduled employments are regulated by the said act and whereas the former takes into the account wages of the larger extent of people within informal and unscheduled industries. This, therefore, makes the DC Rate stronger in cases of MACT where most victims are registered within informal labours not holding any type of registered employment.

iii) Classification of employees like unskilled, semi-skilled and part-time employees by DC rates comes more within the purview of fact in most cases of accident deaths.

iv) DC Rates are widely used terms in government contracts, local administrative practice, and even judicial precedents as a better yardstick to assess income in circumstances where official records of employment are not available.

v) DC Rates are reviewed annually to accommodate inflation and changes in cost of living so that they capture the real economic conditions prevailing when the incident occurred. They are therefore very appropriate to use in motor accident compensation cases, where income estimation should be both timely and reasonably accurate.

12. In the present case the tribunal has rightly taken the DC rate as his monthly income to work out the compensation as, once it was established that the deceased was working in the said City, the Court below has rightly applied the DC rates. Moreover, the Co-ordinate Bench of this



FAO-5004-2024 (O&M)

10

Hon'ble Court in *FAO-1176-2024* after considering the various judgments on the similar issue, has rightly held that no doubt the minimum wages is a yardstick which is often used to assess the income of the deceased, however, the same cannot be the only factor to determine the compensation payable to the claimants.

13. Therefore, by applying the above ratio of law, in the present case, the deceased was a young boy of 28 years, therefore, the Courts must strike a balance between inflated and unreasonable demands of the victim viz-a-viz the equally tenable claim of the party. The award should be "just" and fair enough which must ensure that the claimants are adequately restored to the financial position as enjoyed by the claimant prior to the date of accident. Although there cannot be any compensation for the loss of life on account of the untimely demise of the deceased, however, the amount should be adequate to mitigate the financial difficulties the family is likely to face.

14. In light of the above discussion, wherever the Tribunal has to take the benchmark as to what should be the income of the deceased (in the absence of any cogent evidence qua the same), it is held that wherever the claimants are able to prove (i) that the claimant/deceased was a permanent resident of a particular city and (ii) was earning his livelihood as a daily wager in a particular city, then the DC rates would be applicable and attracted rather than the minimum wages rate which would come into play only in the absence of the above two issues not being addressed.



FAO-5004-2024 (O&M)

14. Hence, in view of the above, the present appeal being devoid of any merit stands dismissed.

15. Pending miscellaneous application(s) if any shall stand disposed of.

(ALOK JAIN)
JUDGE

21.11.2024
Parul/Sandeep

Whether speaking/reasoned:- Yes
Whether Reportable:- Yes