

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 217 of 2013

Date of Decision:- 20.07.2015

ICICI Lombard

.....Appellant

Versus

Kashmir Kaur and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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| 1. Whether Reporters of local papers may be allowed to see the judgment? | Yes |
| 2. To be referred to the Reporters or not? | |
| 3. Whether the judgment should be reported in the Digest? | Yes |

Present: Mr. Rajbir Singh, Advocate,
for the appellant.

Mr. Ramesh Sharma, Advocate
for respondent Nos.1 and 2.

Mr. Sandeep Arora, Advocate
for respondent Nos.3 and 4.

SHEKHER DHAWAN, J. (Oral)

Appellant-Insurance Company had challenged the award dated 25.09.2012 passed by the Accident Claims Tribunal, Kapurthala (hereinafter to be referred as 'The Tribunal'), whereby 'The Tribunal' awarded compensation of ₹3,91,000/- on account of death of Dharam Pal. Claimants in this case are parents of the deceased. Dharam Pal died at the age of 20 years and was working as mason. As per claimants, Dharam Pal

was earning ₹10,000/- per month.

2. Learned counsel for the appellant-Insurance Company took the plea that 'The Tribunal' has taken the income of the deceased to be on higher side because the accident had taken place in the month of December, 2010 and minimum wage for skilled as well as unskilled worker was around ₹4,000/- per month only, whereas 'The Tribunal' had taken the income of the deceased to be ₹6,000/- per month, So, the amount of compensation worked out by 'The Tribunal' is on much higher side and the same be reassessed. Learned counsel for the appellant also took the plea that 'The Tribunal' fell in error while taking the age of the deceased for determining the amount of compensation. Rather in this case the age of parents, being claimants, was to be taken into account. So, the amount of compensation be reassessed accordingly.

3. Learned counsel for the claimants-respondents took the plea that 'The Tribunal' has already assessed the amount on much lower side because nothing has been awarded on account of enhanced future earnings though the deceased was just of the age of 20 years. More so, deceased Dharam Pal was working as mason and he was not labourer, whereas the minimum amount as shown in the 'Table' is for labourer only. Positive evidence had come on the file that Dharam Pal was earning ₹10,000/- per month and 'The Tribunal' had just taken the income of the deceased to be ₹6,000/-. The amount of compensation requires to be redetermined and enhanced suitably.

4. Having considered the rival contentions raised by counsel for

the parties, this Court is of the considered view that the Tribunal has taken the income of the deceased correctly, as he was working as mason. There is absolutely no evidence either to increase or decrease the income of the deceased without availability of any contrary evidence. 'The Tribunal' has rightly taken the age of the deceased for determining the amount of compensation.

5. In view of the above, the present appeal is without any merit and same stands dismissed.

July 20, 2015
naresh.k

(SHEKHER DHAWAN)
JUDGE