

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

FAO No.6111 of 2012 (O&M)

Date of decision : 30.08.2016

The Oriental Insurance Company Limited

.....Appellant

Versus

Smt. Kuldeep Kaur and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. D.P. Gupta, Advocate for appellant.

Mr. Uday Chauhan, Advocate for respondents No.1 to 3.

Mr. Ishan Cooner, Advocate for

Mr. J.S. Cooner, Advocate for respondent No.4.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellant-Oriental Insurance Company Ltd. (respondent No.3 in the claim petition) against the award dated 08.08.2012, passed by learned Motor Accidents Claims Tribunal, Panchkula (hereinafter called the "Tribunal"), vide which the respondents No.1 to 3-claimants have been awarded compensation to the tune of Rs.12,20,000/- on account of death of Harjinder Singh, in the motor vehicular accident which took place on 14.03.2009.

2. The present appeal has been preferred by the appellant-Insurance Company to assail the award.

3. I have heard learned counsel for the parties and have gone through the paper-book meticulously.

4. Learned counsel for the appellant-Insurance Company contended that the learned Tribunal has wrongly determined the income of the deceased. He contended that the deceased was an agriculturist. The learned Tribunal has taken into consideration the entire value of the agricultural produce mentioned in 'J' forms to determine the income of the deceased. He contended that the agricultural land has come to the legal heirs of the deceased. Learned Tribunal should have taken only the value of his managerial capacity to manage the agricultural land. Thus, he contended that the income of the deceased taken by the learned Tribunal at the rate of Rs.10,000/- per month is on higher side, which has resulted in grant of exorbitant compensation.

5. On the other hand, learned counsel for respondents No.1 to 3/claimants pleaded that income of the deceased has been rightly determined by the Tribunal.

6. I have duly considered the aforesaid contentions.

7. There is no dispute with the proposition of law that in case of death of an agriculturist, the land is always inherited by his legal heirs. Only the value of his managerial services to manage the agricultural land is taken into consideration. The value of the entire agricultural produce cannot be taken into consideration. So, the learned Tribunal has wrongly taken the income of the deceased.

8. But at the same time there is no justification to reduce the amount of compensation as the claimants have not been awarded just compensation under various heads. The claimants have been awarded only

Rs.5000/- towards funeral and last rites expenses, Rs.10,000/- towards loss of consortium and Rs.5000/- towards loss of estate. The learned Tribunal has awarded less amount towards funeral and last rites expenses and loss of consortium. No amount has been awarded on account of loss of love, care and guidance to the minor son of the deceased. If the aforesaid amounts are provided as per the law laid down by the Hon'ble Apex Court in case ***Rajesh & others Vs. Rajbir Singh & others, 2013(3) RCR (Civil) 170***, there will be no substantial difference in the amount of the compensation. So, no case is made out for reduction of the amount of compensation.

9. Consequently, the present appeal has no merits and the same is hereby dismissed.

30.08.2016

sunil yadav

(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No