

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 2565 of 2016 (O&M)

Date of Decision : 14.07.2016

National Insurance Co. Ltd.

.....Appellant

Versus

Raj Rani and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ravinder Arora, Advocate
for the appellant.

Mr. R.K. Saini, Advocate
for caveators-respondents no. 1 to 7.

Surinder Gupta, J.

This is appeal against award dated 08.12.2015 passed by Motor Accident Claims Tribunal, Kurukshetra (later referred to as 'the Tribunal') awarding compensation of ₹22,07,144/- for death of Ajit Singh in a motor vehicle accident with motorcycle bearing registration no. HR-07-V-3995 (later referred to as 'the offending vehicle') due to rash and negligent driving of respondent no. 8-Salinder Kumar.

2. The Tribunal calculated compensation awarded to claimants as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Ajit Singh
(ii)	Age of the deceased	45 years
(iii)	Monthly income of the deceased (in the absence of evidence that the deceased was a truck driver, his income as per DC rates was assessed as ₹10,200/- per month)	₹10,200/-

(iv)	30% of (iii) above was allowed towards future prospects as per observation of Apex Court in case of <u>Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54</u> and <u>Munna Lal Jain and others vs. Vipin Kumar Sharma and others, 2015 (3) RCR (Civil) 447</u>	₹10200+₹3060 = ₹ 13260 per month
(v)	1/5 th of (iv) deducted as personal expenses of the deceased as per observations of Apex Court in case of <u>Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121</u>	₹13260-₹2652 = ₹10608 per month
(vi)	Compensation calculated after applying the multiplier of 14	(₹10608X12X14) = ₹1782144
(vii)	Loss of consortium	₹100000
(viii)	Compensation of ₹1 lac each to claimants no. 3 to 5 towards loss of love and affection	₹300000
(ix)	Compensation for transportation and funeral expenses	₹25000
<i>Total</i>		₹2207144

3. Learned counsel for the appellant has argued that the Tribunal has assessed income of the deceased without any basis. There was no evidence that the deceased was employed as driver of the truck. He has also argued that the matter regarding allowing of compensation towards future prospects as decided by the Apex Court in the case of ***Rajesh (supra)*** is pending consideration by larger Bench of the Apex Court in case **National Insurance Company Limited vs. Pushpa and others, Appeal (C) No.8058 of 2014 decided on 02.07.2014 (MANU/SC/1246/2014)**. He has further argued that the multiplier applicable in this case as per Schedule II under Section 163-A is 13 and not 14 as taken by the Tribunal.

4. Learned counsel for respondents no. 1 to 7 has argued that the deceased was a truck driver. He was holding a valid driving licence to drive heavy transport vehicle, copy of which was placed on record. Being an

illiterate and rustic villager, wife of the deceased and his old aged parents

could not produce evidence regarding employment of the deceased as truck driver. Still the Tribunal has committed no error of law by taking income of the deceased as ₹10,200/- per month, the minimum wages notified by Deputy Commissioner, Kurukshetra vide order dated 20.02.2015. The above wages have been assessed for Class-IV posts like sweeper, waterman, *chowkidar*, peon, *khalashi* etc. For the job of driver, minimum wages prescribed are ₹12,000/- for driving light vehicle and ₹14,000/- for heavy vehicle. The deceased was a middle aged person and it is a well known fact that a driver who was getting salary of ₹5000/- to ₹6000/- in the year 2004 is now getting ₹12,000/- to ₹15,000/- per month as salary. He has further argued that the multiplier applicable is 14 as per observations of Apex Court in case **Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121.**

5. I have carefully considered the submissions of learned counsel for parties.

6. Though, claimants failed to prove profession/vocation of the deceased as truck driver, still the Tribunal has committed no error of law by taking income of the deceased as per rates fixed by Deputy Commissioner, Kurukshetra vide his letter bearing endorsement No. 2515-2615 dated 20.02.2015. The minimum wages prescribed for most of the jobs, which falls in class-IV like sweeper, peon, *chowkidar*, *khalashi*, cook, cleaner etc., are ₹10,200/- w.e.f. 01.03.2015. The accident in this case had taken place on 29.06.2015, as such, the Tribunal has committed no error of law by relying on the wages prescribed by Deputy Commissioner, Kurukshetra. Even otherwise, Apex Court in case of **Minu Rout and another vs. Satya Pradyumna Mohapatra and others, 2013 (10) SCC 695** has assessed

are aware that prices of goods of daily needs have increased manifold during last 12 years after 2004, salary of a daily wager taken as ₹10,200/-, is not on higher side particularly when this rate is approved by authority of Haryana Government i.e. Deputy Commissioner, Kurukshetra.

7. The matter regarding grant of future prospects has already been dealt with by this Court in ***FAO No. 346 of 2002 decided on 28.05.2016***, ***FAO No. 6595 of 2011, decided on 27.05.2016*** and ***FAO No. 3966 of 2006 decided on 13.05.2016*** and it has been observed that same can be allowed to claimants. Age of the deceased was 45 years and multiplier of 14 has been rightly applied by the Tribunal as per observations of Apex Court in case ***Sarla Verma (supra)***.

8. No other point has been argued by learned counsel for the appellant.

9. As a sequel of my discussion above, I find no merit in this appeal and the same is dismissed.

July 14, 2016
jk

(SURINDER GUPTA)
JUDGE