IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 4161 of 2016 (O&M)
Date of Decision : 22.07.2016

National Insurance Co. Ltd. .....Appellant

Versus

Darshna Devi and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ram Avtar, Advocate
for the appellant.

Surinder Gupta, J.

This is appeal against award dated 09.03.2015 passed by Motor Accident Claims Tribunal, Bhiwani (later referred to as 'the Tribunal') awarding compensation of ₹18,53,000/- for death of Manoj Kumar in a motor vehicle accident with car bearing registration no. HR-48-A-3088 (later referred to as 'the offending vehicle') due to rash and negligent driving of respondent no. 4-Rajnesh.

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

Sr. No.	***Heads***	***Calculation***
(i)	Name of the deceased	Manoj Kumar
(ii)	Age of the deceased	24 years
(iii)	Monthly income of the deceased (in the absence of evidence that the deceased was an agriculturist and was having dairy farming business, his income as ₹8000/- per month was assessed, being minimum wages prescribed by Haryana Government.	₹8000/-
(iv)	50% of (iii) above was allowed towards future prospects	₹8000+₹4000 = ₹ 12000 per month

(v)	1/3rd of (iv) deducted as personal expenses of the deceased	₹12000-₹4000 = ₹8000 per month
(vi)	Compensation calculated after applying the multiplier of 18	(₹8000X12X18) = ₹1728000
(vii)	Loss of consortium	₹100000
(viii)	Compensation for transportation and funeral expenses	₹25000
	Total	₹1853000

3. Learned counsel for the appellant has argued that the Tribunal has assessed income of the deceased as ₹8000/- per month without there being any evidence. Claimants have alleged that the deceased was agriculturist and was carrying on dairy farming but no evidence was produced on record regarding agricultural land owned by the deceased or his dairy farming business. The Tribunal has also allowed addition of 50% in income of the deceased towards future prospects in view of observations of Apex Court in ***Rajesh and others vs. Rajbir Singh and others*, 2013 (9) SCC 54** and ***Munna Lal Jain and others* vs. *Vipin Kumar Sharma and others*, 2015 (3) RCR (Civil) 447**. This matter is still pending before 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)*** for consideration by larger Bench as to whether addition towards future prospects can be allowed, as such, the Tribunal has committed error while allowing addition in income of the deceased towards future prospects.

4. Perusal of award shows that the Tribunal discarded the plea of claimants that the deceased was having income of ₹30,000/- from his agriculture and dairy farming business. He was taken as unskilled labourer and his income was assessed as ₹8000/- per month by relying on the minimum wages fixed for unskilled labourers by Haryana Government.

Learned counsel for the appellant has argued that as per notification dated 28.02.2014 issued by Haryana Government, minimum wages of unskilled worker (helper) were ₹5548/- and not ₹8000/-, as such, assessment of income of the deceased as ₹8000/- is not in accordance with minimum wages prescribed by Haryana Government.

5. While appreciating submissions of learned counsel for the appellant, it is to be kept in mind that we are living in the age of high inflation. It is a matter of common knowledge that even a daily wage labourer is getting minimum wages of more than ₹300/- per day. Though, Haryana Government has prescribed minimum wages of unskilled worker w.e.f. 01.01.2014 as ₹5548/-, the same are revised half yearly. Accident in this case occurred on 19.07.2014 and by that time the minimum wages prescribed by Haryana Government must have been revised. Even otherwise, the above salary is prescribed for unskilled worker (helper). Salary of class-IV employee prescribed by Deputy Commissioner(s) in the State of Haryana for the year 2014 was around ₹9000/-. In case ***FAO No. 2565 of 2016,*** this Court has approved the assessment of ₹10,200/- as monthly salary of the deceased, who was taken as unskilled worker on the basis of DC rates prescribed by Deputy Commissioner, Kurukshetra for class-IV employees for the year 2015. In view of above facts, the Tribunal has committed no error while assessing income of the deceased as ₹8000/- per month.

6. The matter regarding addition in income of the deceased towards future prospects has already been dealt with by this Court in ***FAO No. 2032 of 2014 decided on 06.04.2016***, ***FAO No. 3966 of 2006 decided on 13.05.2016*** and ***FAO No. 6595 of 2011, decided on*** **27.05.2016** and it has been observed that same can be allowed to claimants. We are living in the age having inflationary trends and the money is losing its value day by

day. The prices of goods of daily need have arisen manifold during the past two decades. Even otherwise, when every person is trying to rise high in life, the deceased who was in prime of his youth, could not be an exception.

7. As a sequel of my discussion above, compensation awarded by the Tribunal is not on higher side and calls for no interference in this appeal, which has no merit.

Dismissed.

July 22, 2016 **(SURINDER GUPTA)**
jk **JUDGE**

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No