

FAO-6674 of 2016

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In the High Court of Punjab and Haryana at Chandigarh

**FAO-6674 of 2016(O&M)
Date of Decision: 17.11.2016**

Oriental Insurance Company Limited

---Appellant

versus

Smt. Mandika and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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

Rekha Mittal, J.

The present appeal directs challenge against award dated 30.7.2016 passed by the Motor Accidents Claims Tribunal, Chandigarh whereby compensation has been awarded in favour of Mandika and others in regard to death of Balbir Singh @ Balbir in a motor vehicular accident that took place on 24.11.2015.

Counsel for the appellant has assailed assessment of compensation on two counts. The first submission made by counsel is that the learned Tribunal has assessed monthly income of the deceased at Rs. 8370/- by considering him to be semi skilled-II labourer whereas minimum

wage for an unskilled labourer is Rs. 8220/- per month and Rs. 360.15P per day. It is argued that if a person is not working on regular basis, he may not get work throughout the month, therefore, income is liable to be reduced. Another submission made by counsel is that the Tribunal has allowed benefit of future prospects to the extent of 50% despite the fact that the matter with regard to future prospects is pending consideration before a Larger Bench in view of reference made in ***National Insurance Company Limited vs. Pushpa and others*** in a petition for Special Leave to Appeal (Civil)-8058 of 2014.

I have heard counsel for the appellant, perused the paper book particularly the award passed by the learned Tribunal.

Pritam, father of the deceased appeared in the witness box and deposed that the deceased was working as a waiter and earning Rs. 15000/- per month out of which Rs. 12,000/- were being given to the family for meeting household expenses. No doubt, statement of Pritam with regard to deceased working as a waiter does not find corroboration from an independent source much less documentary evidence. The deceased was aged about 32 years and has left behind a family consisting of his widow and one child. He alongwith his family had been residing in Chandigarh.

There is nothing on record suggestive of the fact that the deceased was suffering from any ailment rendering him incapacitated to work and earn livelihood for his family staying in Chandigarh where prices of daily necessities are more than other towns of Punjab. Keeping in view the minimum wage available to an unskilled labourer fixed by UT Administration, Chandigarh and aforesaid discussion, I do not find any reason to interfere in the income assessed by the Tribunal. The claimants cannot be denied benefit of future prospects merely because the matter is pending before a Larger Bench till the judgment in *Rajesh and others vs. Rajbir Singh and others 2013 (3) RCR (Civil) 170* is set aside or varied.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed.

The statutory amount of Rs. 25,000/- be remitted to the Tribunal for payment to the claimants.

(Rekha Mittal)
Judge

17.11.2016

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No