

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

FAO No.7722 of 2015 (O&M)

Date of decision : 12.04.2016

Smt. Sunita and another

.....Appellants

Versus

National Insurance Company Ltd. And others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

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

Present: Mr. Sagar Deswal, Advocate for appellants.

Mr. Amit Kumar Goyal, Advocate for respondent No.1.

Mr. Ram Kumar Saini, Advocate for
respondents No.4 and respondent Nos.5(i) to 5(iv).

DARSHAN SINGH, J.

CM-24234-CII-2015

There is delay of 145 days in filing the present appeal. The appellants have filed an application under Section 5 of the Limitation Act for condonation of delay.

Heard on the application.

In view of the reasons mentioned in the application, same is allowed and the delay in filing the present appeal stands condoned.

FAO No.732 of 2014

The present appeal has been preferred by the appellants-claimants against the award dated 26.02.2015 passed by learned Motor Accidents Claims Tribunal, Kurukshetra (hereinafter called the 'Tribunal'), vide which the claimants have been awarded compensation to the tune of Rs.11,05,100/- on account of death of their son Rajesh Kumar in the motor vehicular accident, which took place on 13.11.2012.

2. The present appeal has been preferred by the appellants-claimants for enhancement of the amount of compensation.

3. Learned counsel for the appellants-claimants contended that the deceased was earning Rs.15,000/- per month as in addition to his studies, he was also working as electrician but the learned Tribunal has taken the income of the deceased only to the tune of Rs.6050/-, treating him to be a labourer. He contended that the income of the deceased should have been taken to be Rs.15,000/- per month. Thus, the just compensation has not been awarded.

4. On the other hand, learned counsel for the respondents contended that the deceased was a student. There was no proof that he was working as an electrician. So, no fault can be found with the income of the deceased taken by the learned Tribunal.

5. I have duly considered the aforesaid contentions.

6. Appellant-claimant Smt. Sunita has stepped into the

witness box as PW-2 and has stated that her son was working an electrician. He was 20 years of age and was earning Rs.15,000/- per month. However, this fact is not disputed that deceased was still a student at the time of his death. Except the oral statement of PW-2 Sunita, the mother of the deceased, the claimants have not led any other evidence in corroboration thereof to show that in addition to his studies, the deceased was also working as electrician. There is no material on record to show that he had received any training to work as an electrician. The claimants have also not examined any person to whom the deceased might have provided the service as electrician. Thus, there was nothing on record to show that the deceased was working an electrician and was earning Rs.15,000/- per month. The learned Tribunal has rightly taken the income of the deceased to be Rs.6050/- *i.e.* minimum wages of a labourer fixed by the Government of Haryana for the year 2012-13.

7. Thus, the learned Tribunal has awarded just compensation under all the heads. The learned counsel for the appellants could not point out any deficiency therein. Thus, no further enhancement in the amount of compensation awarded by the learned tribunal is called for.

8. Resultantly, the present appeal, being without any merits, is hereby dismissed.

12.04.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**