

FAO No.1747 of 2018 (O&M)

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

FAO No.1747 of 2018 (O&M)

Date of decision:04.04.2018

The Oriental Insurance Company Limited

... Appellant

Vs.

Parvesh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. R.K.Bashamboo, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.6740-CII-2018

For the reasons stated in the application which is duly supported by an affidavit, delay of 05 days in filing the appeal, is condoned.

C.M. stands disposed of.

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The appellant-Insurance Company is aggrieved of the award dated 02.11.2017 rendered by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as "Tribunal") in a claim petition filed by the claimants, i.e., widow, minor children and mother on account of death of Parveen Kumar, who on 17.01.2017 at 3.40 p.m while driving a motorcycle had met with an accident with Haryana Roadways bus bearing registration no. HR-68-A-9978, insured by the Insurance Company. The deceased at the time of death was 38 years of age and was having 8 kilas of

land and 8 kilas on contract. It was averred that he was earning a sum of ₹45,000/- per month and FIR in this regard was also lodged against the driver of the vehicle.

The Tribunal on the basis of evidence brought on record assessed the income of deceased as ₹12,000/- per month and by applying the multiplier of 15 awarded the compensation of ₹23,68,000/- with 40% increase in future prospects and under the conventional head, awarded ₹1,00,000/-.

Mr. R.K.Bashamboo, learned counsel appearing on behalf of the appellant submitted that once the Tribunal has treated the deceased to be a semi-skilled labour and as per the notification of Govt. of Haryana, the semi-skilled labour minimum wages were ₹8,649.20 and therefore, income of the deceased should have been taken on the lower side and a sum of ₹1,00,000/- under the conventional heads is on the higher side and thus, urged this Court for setting aside award under challenge.

I have heard the learned counsel for the appellant, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Bashamboo, for, concededly, deceased Parveen Kumar along with his brother was having 2/7th share in the total land measuring 227 kanals 7 marlas. J-From has been placed on record as Ex.P7. Keeping in view the totality of the circumstances, ie., Ex.P7, the Tribunal had assessed the income of deceased as ₹12,000/- per month. There would have been some force in the argument of Mr. Bashamboo, had there not been any

evidence with regard to income of the deceased. It is in these circumstances, income of deceased was assessed as per the minimum wages prescribed in the Act, therefore, the aforementioned argument is wholly misplaced and is hereby rejected.

With regard to excess of ₹30,000/- under the conventional head, I am of the view that in such circumstances, Insurance Company could not have filed the appeal as they should be mindful of the fact that minor children and young widow had lost their father/husband at the age of 38 years.

No ground is made out for interference in the impugned award.

The appeal stands dismissed.

(AMIT RAWAL)
JUDGE

April 04, 2018
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Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No