

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

FAO No.2968 of 2018 (O&M)

Date of Decision: June 01, 2018

National Insurance Company Limited

...Appellant

Versus

Ramesh and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.S.S.Sidhu, Advocate
for the appellant – Insurance Company.

HARINDER SINGH SIDHU, J.

The insurer has filed the present appeal challenging the award dated 07.03.2018 passed by the Motor Accident Claims Tribunal, Karnal (for short 'the Tribunal').

Brief facts as disclosed in the claim petition are that on 02.01.2017 in the area of Village Staundi a vehicular accident took place involving Car No.HR06-AE-7145 (herein for short 'the offending vehicle'), wherein, Ramesh sustained injuries. The accident was alleged to have been caused due to rash and negligent driving of the offending vehicle. FIR regarding the accident was also registered.

On filing a claim petition by Ramesh, the Tribunal noticed that the claimant had suffered 13% disability qua the whole body. It assessed the monthly income of the deceased at Rs.10520/-, added 50% towards future prospects, applied the multiplier of 17 $[(10520+50\%) \times 12 \times 17 = 32,19,1210/-]$. Since the injured had suffered 13% disability, the financial loss caused to him was also assessed to that extent only $(3219120 \times 13/100 = 418486)$. In

1.	Medical bills amounting to	Rs.1,16,500/-
2	Loss of future earning on account of permanent disability to the tune of 13%	Rs.4,18,486/-
3	Physical and mental pain suffered by injured	Rs.5,000/-
4	Special diet to the tune of	Rs.2000/-
5	Loss of amenities and loss of expectation of life to the tune of	Nil
6	transportation charges	Rs.2000/-
7	Attendant charges	Nil
	Total	Rs.5,43,986/- or to say 5,43,990/-

Challenging the Award, learned counsel for the Insurance Company contends that the income of the injured-claimant has been wrongly taken to be Rs.10,520/-, as per the Collector rate. Relying on a decision of Hon'ble Supreme Court in **Govind Yadav Vs. New India Insurance Company Ltd.. 2011(10) SCC 683**, he argued that where there is no proof of income the income ought to be assessed as per the minimum wages notified by the concerned State. He refers to communication No.IR-2/7083-7193 dated 2.3.2017 sent by the Labour Commissioner to Additional Labour Commissioner, Gurgaon and other Authorities, as per which w.e.f. 1.1.2017 the minimum wages for unskilled labour was Rs.8220.20 per month in the State of Haryana.

The contention merits acceptance. In absence of proof of income, the Tribunal ought to have assessed income as per the Minimum Wages fixed by the Government of the State and not as per the Collector rates.

Accordingly, if the compensation under the head of 'loss of future

earning on account of permanent disability' is calculated taking the income of the claimant – respondent at Rs.8280.20 per month, the loss comes to Rs.3,29,400/- (rounded off) [(8280.20+50%)x12x17x13/100 =329386.36] i.e. Rs.89,086/- (418486-329400) less than the amount awarded by the Tribunal.

No other argument was raised.

The appeal is allowed accordingly. The Award of the Tribunal is modified to the extent that the appellant is held entitled to compensation of Rs.454904/- i.e. Rs.89086/- (543990-454904) less than the amount awarded by the Tribunal.

The appeal has been disposed of without notice to the respondent – claimant to avoid unnecessary delay and expense. A copy of this order be conveyed to the claimant-respondent No.1. In the event of the said respondent having any objection, he may file application to that effect. On receipt of any such application, the same be listed for hearing.

It is made clear that this order has been passed on an appeal filed by the Insurance Company without hearing the claimant and is confined to the contentions raised herein. It is without prejudice to the rights of the claimant to separately agitate for enhancement on any ground that may be available to him.

June 01, 2018

(HARINDER SINGH SIDHU)

JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No