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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4423 of 2018 (O&M)
Date of Decision : 26.07.2018.

National Insurance Company Limited

... Petitioner

Versus

Suresh Devi alias Suresho Devi and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr. Om Pal Sharma, Advocate for the petitioner.

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B.S.WALIA, J. (Oral)

1. Challenge is to award dated 13.03.2018, passed by the Learned Motor Accidents Claims Tribunal, Chandigarh, (hereinafter referred to as 'the Tribunal'), whereby the respondents-claimants were awarded a sum of ₹12,24,160/- along with interest at the rate of 7.5% per annum w.e.f. the date of claim petition till realization, by taking into account the income of the deceased who had retired from the Indian Army at ₹12,030/- i.e. family pension being received by the widow of the deceased in addition to ₹4,000/- per month on account of agricultural income of the deceased.

2. The only grievance of the appellant is that assessment of agricultural income of the deceased at the rate of ₹4,000/- per month was

unsustainable as no evidence whatsoever was led in respect thereto. No other point has been argued.

3. I have considered the submissions of learned counsel for the appellant. As against the claim of ₹10,000/- per month as agricultural income of the deceased, the Tribunal in terms of paragraph No.23 of its award, while noticing that there was no documentary evidence regarding exact income of the deceased from agricultural land, assessed the agricultural income of the deceased at ₹4,000/- per month approximately on account of contribution of the deceased in the agriculture activities on his fields as also management in respect thereto. The Tribunal held that land owned by the deceased was available with the family from which income could be derived either by self cultivation or leasing it out on 'Theka'. However, on account of death of Ajmer Singh, the family of the respondents-claimants was deprived of the personal contribution of the deceased in doing self cultivation and managing the land in question. Accordingly, in the aforementioned background and keeping in view the age of the deceased i.e. 56 years, the Tribunal assessed the agricultural income of the deceased at ₹4,000/- per month approximately.

4. Admittedly, the deceased owned land. He was a retired person. It is not the case of the appellant that the land was not being cultivated. Since the land was admittedly being used for agriculture purposes, therefore, on account of death of Ajmer Singh, the family of the deceased was deprived of his personal contribution in the agriculture operations on the said land. The Tribunal by taking a holistic view assessed

the amount of contribution of the deceased in the agriculture operations at ₹4,000/- per month and in the view of this Court, the assessment is reasonable and does not call for any interference.

5. Accordingly, finding no circumstance warranting interference in the impugned award, the appeal is dismissed in limine.

(B.S.WALIA)
JUDGE

26.07.2018
rajesh.k.khurana

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No