

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

FAO No.4979 of 2018(O&M)
Date of Decision:08.08.2018

IFFCO TOKIO General Insurance Co. Ltd.

.....Petitioner

Vs.

Shalu Rani and others

....Respondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Ms.Swati Batra, Advocate,
for the petitioner.

AMOL RATTAN SINGH, J. (Oral)

Learned counsel for the appellant insurance company submits that the income of the deceased has been exaggeratedly taken to be Rs.11,000/- per month vide the impugned award passed by the learned MACT, Kurukshetra, whereas actually he should have been treated to be an unskilled labourer he being an agriculturist and consequently, in terms of the circular of the Government of Haryana, applicable on the date of the accident, i.e. 12.03.2017, the monthly wages of that category (Rs.8,280/-) should have been accepted as the income.

Having considered that, it is seen from the impugned award that it was proved before the learned Tribunal that deceased Neeraj had inherited agricultural land from his father who had died on 23.09.2014, with learned counsel also very fairly not denying that it was shown in the *jamabandi* (record of rights) proved on record, that such agricultural land was to the extent of 14 acres.

That being so, in my opinion the deceased could not be taken to be an agricultural labourer, he obviously looking after 14 acres of land in a

managerial capacity, and even though income from the land would be very much available to the legal heirs of the deceased, the claimants are seen to be his widow aged 23 years, his daughter aged 1 ½ years and his mother aged about 49 years.

Presuming that either the mother or the widow takes charge of the agricultural operations, naturally it would be at the cost of duties in the home, or they would have to employ another person to manage the land.

Keeping that in view, I see no error in the assessment made by the learned Tribunal, considering that even as per the circular dated 02.03.2017, produced in the Court today by learned counsel (issued by the Labour Commissioner, Haryana), the total monthly wages of a skilled labourer are shown to be Rs.10,064.62.

Therefore, the deceased being in a managerial capacity as the owner of his land, an assessment of income of Rs.936/- per month (approximately) over and above the wages of a skilled labourer, are not considered excessive by this Court.

This is also further to be seen with the fact that he was proved to have been owning a tractor, on the basis of which learned counsel submits that he can be at best taken to be a semi-skilled labourer even as the driver of an agricultural tractor.

This Court already having observed hereinabove that the deceased being in a managerial capacity, managing 14 acres of land which is proved to have been owned by him, simply because he also had a licence to drive a tractor that he owned, would not take away the *factum* of him being a person who managed his own agricultural land.

Keeping in view the above and nothing further having been pointed out from the impugned award to the effect that it is erroneous in any other manner, I see no reason to entertain this appeal, which is consequently dismissed in *limine*.

(AMOL RATTAN SINGH)
JUDGE

August 08, 2018.
dharamvir

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO