

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

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FAO No.5136 of 2018 (O & M)
Date of Decision:16.08.2018

The Oriental Insurance Company Limited

...Appellant

Versus

Ramandeep Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ram Avtar, Advocate
for the appellant.

ANIL KSHETARPAL, J.(Oral)

Insurance Company is in the appeal against the award passed by the learned Motor Accident Claims Tribunal. Late Sh. Gurtej Singh, who was below 40 years of age, travelling in a car, had died in a Motor Vehicular Accident. Learned Motor Accident Claims Tribunal taking income of the deceased to be Rs.10,000/- and keeping in view that there are five dependents applied deduction of 1/5th and thereafter assessed the compensation accordingly.

Learned counsel for the appellant insurer with all sincerity argued that while working out dependency a cut of 1/4th should be imposed. He further submitted that in absence of any evidence of income, it could not be assessed beyond Rs.9,135/-, the minimum wages.

This Court has considered the submission, Gurtej Singh no doubt did not own any agricultural land, however, it has been pleaded that

earning Rs.10 lakhs; beside, running a dairy farm. Accident took place on 23.11.2016. No evidence was produced by the respondent. Widow has appeared in the evidence and has stated that her husband used to take the land on lease and earn handsomely.

Keeping in view the aforesaid facts, the deceased could not be treated as an unskilled labourer. A skilled labourer in northern part of the country is earning much more than Rs.400/- per day. The learned Court has only assessed the income conservatively at Rs.10,000/-.

With regard to the deduction imposed for working out dependency, it may be noticed that deceased has left behind a young widow, two minor children out of which one was only seven months old on the day claim petition was filed and aged parents.

Keeping in view the aforesaid facts, no error can be found to the cut imposed by the learned Motor Accident Claims Tribunal. There were total six members of family, out of which sole bread earner has died.

Hence, no ground to interfere in the judgment of the Motor Accident Claims Tribunal.

Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the above said judgment.

16.08.2018

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(ANIL KSHETARPAL)

JUDGE

Whether Speaking/Reasoned: Yes/No

Whether Reportable : Yes/No