

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CM-22231-CII-2018 in/and
FAO-6390-2018 (O&M)
Date of Decision : 10.10.2018

IFFCO TOKIO General Insurance Company Ltd.

..... Appellant

Versus

Suman and others

.... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Vishal Aggarwal, Advocate
for the appellant.

AJAY TEWARI, J. (ORAL)

CM-22231-CII-2018

For the reasons recorded, the application is allowed. Delay of
13 days in filing the appeal is condoned.

FAO-6390-2018 (O&M)

This appeal has been filed by the insurance company against
the award dated 22.05.2018 awarding compensation of Rs.18,84,400/-
alongwith interest @ 7.5% p.a. on account of death of Pawan Kumar in an
accident. Since very limited grounds have been raised further detailed
reference to the facts is not required.

The first argument of the counsel is with regard to the
involvement of the vehicle in an accident. He has argued that in the DDR it
was recorded by the same eye witnesses that the accident had occurred by
chance but in the claim petition and the testimony they changed track and

took the plea of rash and negligent driving.

It may be noticed that in their testimony the witnesses (father and brother of the deceased) had stated that though they had reported to the police correctly, the police had taken their thumb impressions and recorded wrong DDR. Even though it is correct that the counsel has managed to create a doubt yet it is also equally correct that in civil cases burden of proof is that of balance of probability and not that of beyond reasonable doubt. Minor inconsistencies in evidence are not relevant in civil cases in considering the question of discharge of this burden. In the circumstances, the argument regarding involvement of vehicle in an accident is rejected.

The second argument of the counsel is that the income @ Rs.9000/- p.m. is on the higher side because the deceased was claimed to be a Carpenter but no evidence thereof was led. The Tribunal had noticed that the deceased worked in the United Emirates. The Tribunal further noticed that the deceased was holding a driving license there. In the circumstances, there is no error in law in holding him as skilled labour. Once that is so, the income is as per the schedule of the Minimum Wages Act.

No other arguments have been raised. Consequently, the appeal is dismissed. However, it is directed that the statutory amount be remitted to the Tribunal for its disbursal to the claimants.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

October 10, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No