

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.6430 of 2018 (O&M)

Date of Decision: 05.12.2018

**Pepsu Road Transport Corporation through Managing Director
.....Appellant**

Vs.

**Sunita and others
.....Respondents**

CORAM: HON'BLE MR.JUSTICE DR. RAVI RANJAN

Present:- Mr.Aman Sharma, Advocate, for the
appellant/Insurance Company.

DR. RAVI RANJAN, J.

I have heard counsel for the appellant/Insurance Company and
perused the records of the case.

Appellant is the Pepsu Road Transport Corporation which has
challenged the Decree and Award dated 07.08.2018 passed by the learned
Motor Accident Claims Tribunal, Jind (hereinafter referred to as “the
Tribunal”). The alleged accident took place on 03.07.2016 on account of
rash and negligent driving of respondent No.1-Makhan Singh while he was
driving PRTC bus. The Tribunal has accepted the version of the claimant
of the accident and also that the PRTC bus was the offending vehicle and as
such, the impugned judgment and Award has been passed by the Tribunal.

At the time of hearing, learned counsel for the appellant raised
the sole issue that the income of the deceased has been treated to be
Rs.10,000/- per month which was not just and proper and the same should
have been Rs.8070.44/- per month as per the notification by the State of

Haryana regarding minimum wages for unskilled labourer. Though oral evidence was led on behalf of the claimant stating that the monthly income of the deceased was Rs.40,000/- per month as he was doing agricultural work as well as was also driver and owner of the TATA 407 which he was driving at the time of accident, however, since, PW-2, i.e. the widow of the deceased admitted in her cross-examination that she is not having any proof of income of the deceased but in view of the fact that deceased was 10+2 educated and the accidental vehicle TATA 407 was owned by him for, driving it, the Tribunal considered him as skilled labourer and, as such, his monthly income was taken as Rs.10,000/-. It is contended on behalf of appellant/corporation that he could only be taken as unskilled labour and as such, according to the notification, his wages should have been taken Rs.8070.44/- per month.

In support of aforesaid submission learned counsel for the appellant places reliance of the decision by a Single Bench of this Court rendered in **Reliance General Insurance Company Limited Vs. Sita Devi and Others 2015 (61) RCR (Civil) 285**. It is urged this it has been held in the aforesaid case that, in the absence of any proof of income, deceased was to be considered as unskilled labour, even though, deceased was working in the factory but the claimants could not produce any documentary evidence to this effect, the Tribunal took his wages as an unskilled labourer and quantified the same to be Rs.6,000/- per month. It is contended that in the present case also, since no proof of income has been given, deceased should have been considered as unskilled labourer. *Prima facie*, the submission made on behalf of the appellant appears attractive but

on deeper scrutiny, this Court would not agree to the submission rendered by the appellant. In **Reliance General Company (Supra)** though it was claimed by the claimants that deceased was working in a factory but no documentary evidence was brought on record to that effect. In the present case also no documentary evidence has been brought on record in support of the claim of the claimants that the deceased was earning Rs.40,000/-. Accordingly, that claim has been rejected by the Tribunal, however, at the same time it is admitted position that he is owner of the TATA 407 vehicle and it was being driven by him also thus, there was no difficulty for considering him to be a driver. In such a situation this Court does not see any error in the finding recorded by the Tribunal with respect to the aforesaid issue. So far as Rs.10,000/- per month income is concerned, the notification which have been produced at the time of hearing by the learned counsel for the appellant discloses that the skilled labourer has been kept in two categories A and B. For A category, the minimum wage has been fixed as Rs.9342.53/- per month and for B category it has been fixed as Rs.9809.66/- per month. However, at the time of hearing, nothing could be produced on behalf of appellant to show that driver should be kept in A category and not in B. In the absence of the same, more beneficial part thereof would be required to be applied in the present case as relevant provision of the Motor Vehicle Act is beneficial piece of legislation.

It is next submitted that even if he is taken to be skilled labourer of B category then his income would be 9809.66/- whereas the Tribunal has assessed it as Rs.10,000/-. In my view, this is very unfortunate that for a meagre difference of Rs.200/- in assessing income, the claimants

are being dragged to this Court by filing the appeal by appellant/Corporation. In my considered opinion, for the aforesaid meagre difference, the impugned Award does not warrant any interference.

In the result, this appeal fails and, accordingly, is dismissed.

(DR.RAVI RANJAN)
JUDGE

05.12.2018

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Whether speaking/reasoned Yes/No

Whether reportable Yes/No