

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

**FAO No. 10650 of 2018 (O&M)
Date of Decision: December 21, 2018.**

Universal Sompo General Insurance Company Limited

.....APPELLANT

VERSUS

Arun Kumar Gautam and others

.....RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Chandandeep Singh, Advocate
for the appellant.

SURINDER GUPTA, J.(Oral)

Heard.

Learned counsel the appellant has assailed the award passed by the Motor Accident Claims Tribunal, Sonapat on two grounds, firstly, claimants No. 2 and 3 who were minors, were not sued through their guardian and secondly, the Tribunal has taken salary of the deceased as ₹10,000/- per month on the basis of salary slips produced on file as Ex. P-2 to P-7. The salary slips were not sufficient proof of employment of deceased as conductor and his income.

Claimants/respondents No. 3 to 6 sought compensation for death of Shabbir Ahmed, aged about 30 years in a motor vehicle accident with truck bearing Registration No. HR-74-1341.

As the only issue raised by learned counsel for the appellant is qua the quantum of compensation and filing of claim petition on behalf of

the minors, the detailed facts of the case are being skipped for the sake of brevity.

The perusal of the copy of award placed on file by the appellant shows that claimants No. 2 and 3 namely Iflak Shabbir and Hadiya Shabbir were minor son and daughter of deceased but they were not sued through their natural guardian/mother Jasmeena Bano-claimant No. 1. Though, there is lapse on the part of counsel for the claimants in mentioning this fact but the same is not material as the parties were fully aware that both son and daughter of deceased were minor, particularly, in view of the fact that mother of these minors-Jasmeena Bano was also claimant No.1. Even the Tribunal was well aware of this fact, while allowing the apportionment of amount of compensation as it has ordered to deposit the share of minor children of deceased in the shape of fixed deposits in some nationalised bank.

Keeping in view the above fact mere lapse in claim petition to state that claimants No. 2 and 3 are being sued through their mother is no reason to set aside the award which was passed after hearing the parties.

The second contention of learned counsel for the appellant is regarding quantum of compensation allowed to the claimants. While assessing income of the deceased, the Tribunal has taken note of the salary statement of the deceased placed on file as Annexure P-2 to P-7. PW-3 Abdul Lajif, had produced this record and stated that deceased was working as conductor on his vehicle and was getting ₹16,000/- per month as salary. The Tribunal, however, observed that salary of the deceased was mentioned in the salary statement as ₹10,000/- per month and ₹6,000/- given to him for four trips @ ₹1500 per month per trip. The amount of ₹6,000/- was reduced

from income of the deceased as shown in the salary slip and same was taken as ₹10,000/- per month.

Learned counsel for the appellant has relied on the observations in the case of *Sarla Rani and others Vs. Charan Singh and another, in FAO No. 2314 of 2003 decided on 15.01.2015*, wherein salary certificate of deceased in the absence of his appointment in the firm was discarded on the ground that no record of the firm had been produced to show that deceased was appointed by the firm; paid salary regularly and same were shown in the books of account, attendance register and other related record, which was not produced.

In this case, the above observations are not applicable in the facts and circumstances of the present case, as the deceased was working as conductor and even if his salary be taken as minimum wages prescribed for skilled worker by the State of Haryana, the same is around ₹10,000/- per month.

In view of above my discussions, both the submissions of learned counsel for the appellant have no merits and are discarded.

No other point has been raised. This appeal has no merits.

Dismissed.

(SURINDER GUPTA)
JUDGE

December 21, 2018.
Jyoti-II

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***