

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.2619 of 2019(O&M)
Date of Decision:22.04.2019

National Insurance Company Ltd.

.....APPELLANT

Vs.

Munni Devi and others

.....RESPONDENTS

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

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

DR. RAVI RANJAN, J.(Oral)

I have heard learned counsel for the appellant.

This appeal is directed against the Judgment and Award dated 14.12.2018 passed by the Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as “the Tribunal”) in CIS No.MACP-488-2017, by which an amount of Rs.19,21,404/- has been awarded as compensation alongwith interest @ 7.5% per annum from the date of filing the claim petition till realization to the claimant, who happens to be mother of deceased-Sunil Kumar and his widow-Priyanka, who was arrayed as respondent No.4 as proforma respondent before the Tribunal. However, the Tribunal has granted compensation to both of them.

Short facts necessary for consideration of the *lis* stand enumerated as under:-

On 23.05.2016, deceased-Sunil Kumar by riding on his motorcycle bearing Registration No.HR34G-1130 was going from his village Dongra Jat to Dongra Chowk at the shop of Ganesh carpenter. He was driving his motorcycle at moderate speed. When he reached near Yogesh Plywood Shop, in the meantime, a Indigo car bearing Registration No.HR34D-9204 came from the side of Dongra

Chowk and hit against the motorcycle of Sunil Kumar. Due to the accident, he sustained injuries and his motorcycle was also damaged. The accident was witnessed by Ganesh son of Shri Ram and other persons present at the spot. It is the case of the claimant that this accident took place on account of rash and negligent driving of Car bearing No.HR34D-9204 by respondent No.3-Sher Singh, who is the driver of the alleged Car. Thereafter, a FIR No.167 dated 24.05.2016 was registered. It is claimed that prior to the accident, deceased-Sunil Kumar was 23 years of age and was earning Rs.24,000/- per month working as Carpenter. The driver, owner and insurer of the aforesaid Car have been found jointly and severally liable to pay the compensation to the claimants.

Upon notice, respondents No.3 and 4 herein and respondents No. 1 and 2 before the Tribunal appeared and filed written statement. It was averred therein that no accident took place due to negligence of respondent No.1 while driving the aforesaid Car and vehicle in question was falsely implicated in the case to grab compensation. It was pleaded that if any liability is to be fastened, the same be fastened upon Insurance Company as the driver was having valid driving licence and vehicle was insured with respondent No.3-Insurance Company before the Tribunal. Remaining contents of the petition were denied and prayed for its dismissal with cost.

Respondent No.3-appellant/Insurance Company filed written statement with the averments that respondent No.1 was not having valid driving licence and there has been violation of the terms and conditions of Insurance policy. It was denied that alleged Car was involved in the accident rather same was falselyimpleaded in this case to grab compensation.

The challenge is on the sole ground that monthly income of the deceased has been fixed as Rs.9,000/- per month which is at very higher side and at best, it should have been assessed as Rs.5,486/- per month in view of the relevant

Notification of the State of Rajasthan allowing minimum wage to the workers.

It is contended that, though it has been alleged that the deceased was a Carpenter and was working at the shop of PW-5 and monthly wage of Rs.24,000/- was being given to him by the concerned, since nothing was brought on record to corroborate or substantiate the same, the Tribunal did not fix the amount claimed as monthly income rather it has fixed Rs.9,000/- per month. However, in view of the Gazette Notification dated 05.07.2016, a copy of which has been produced by learned counsel for the appellant at the time of hearing, that monthly income should have been Rs.5,486/- being semi-skilled which is available for Assistant Carpenter or at best, it could have been Rs.5,746/- which is allowed for the skilled persons as per the Notification of the State of Rajasthan regularly fixed of minimum wages of workers.

The logic behind this submission is that since the Tribunal has disbelieved the quantum of monthly remuneration which is claimed by the claimant and which has been stated by PW-5, it should have also disbelieved that he was working at Haryana and, therefore, it has to be presumed that he was working in his stated shelter, i.e., Rajasthan and, thus, the relevant Notification prevalent at that point of time at Rajasthan for the purpose of minimum wage admissible to the workers, should have been applied.

The aforesaid limb of argument advanced on behalf of the appellant is noted only to be rejected for the reason that the accident has taken place in Haryana and the claim is that he was working in the shop at Haryana. PW-5 has admitted that the deceased was working in his shop as Carpenter. Only point is that he could not produce any document to establish the quantum of monthly remuneration which was being given to him but that doesn't mean that entire story has to be disbelieved. To the contrary, nothing has been brought on record by way of evidence on behalf of any of the respondents including the appellant-Insurance

Company to show that he was actually working at Rajasthan only and he has come for some other purpose in Haryana and met with the accident.

In the absence of the aforesaid, the submission made on behalf of the appellant-Insurance Company has simply to be rejected especially when the learned counsel for the appellant admits at the time of hearing of this appeal that at the relevant point of time, the minimum wage available to such type of semi-skilled person would be around Rs.9,000/- in the State of Haryana. In such a situation, in my considered opinion, the monthly income fixed by the Tribunal cannot be faulted with.

In the result, this appeal, being devoid of any merit, is dismissed. However, there would be no order as to costs.

(DR. RAVI RANJAN)
JUDGE

22.04.2019
Anjal

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No