

**CM-17998-CII-2019 in/and
FAO No. 3401 of 2019 (O&M)**

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

**CM-17998-CII-2019 in/and
FAO No. 3401 of 2019 (O&M)
Date of Decision: September 06, 2019**

Universal Sompo General Insurance Company Ltd. Appellants(s)

Versus

Smt. Asmeena and others Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

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

LISA GILL, J.

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Prayer in this application is for preponement of the date of hearing of the appeal.

For the reasons mentioned in the application, duly supported by an affidavit of the applicant, as well as arguments addressed, the application is allowed and hearing of this appeal is preponed from 18.11.2019 for today itself.

Application is disposed of.

FAO No. 3401 of 2019

This appeal has been filed by the insurance company challenging award dated 09.01.2019, passed by learned Motor Accident Claims Tribunal, Gurugram (hereinafter referred to as 'the Tribunal).

Appellant-insurance company is aggrieved of the quantum of

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compensation awarded to the claimants on account of death of Sahil i.e. son of claimants/respondents no.1 & 2. In their petition filed under Section 166 of the Motor Vehicles Act, 1988, respondents no.1 & 2 pleaded that their son Sahil lost his life due to the injuries received by him in the motor vehicle accident, which took place on 13.09.2017, due to the rash and negligent driving of the offending truck bearing registration No. RJ-06-GA-4602, by its driver Jaheer Alam. It is further pleaded that Sahil was 16 years old at the time of the accident and he was working as a cleaner in vehicle bearing registration No.HR-38-S-8815, thereby earning a sum of Rs.10,000/- per month besides Rs.100/- per day as diet expenses. Compensation was thus prayed for.

Learned Tribunal on considering the evidence on record concluded that Sahil died due to injuries received by him in the motor vehicle accident, which took place on 13.09.2017, due to the rash and negligent driving of the offending truck bearing registration No. RJ-06-GA-4602, by its driver Jaheer Alam. This finding of the learned Tribunal has not been impugned by the appellant in this appeal. The same has thus attained finality. Learned Tribunal observed that as the deceased was 16 years of age and even though no record of the exact earning of the deceased was produced by the claimants, he would necessarily have started earning within a short period, therefore, his income was assessed as Rs.8,000/- per month. Learned Tribunal awarded a sum of Rs.12,79,600/- as compensation to the claimants, which is detailed as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
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1.	Income	8,000/- per month
2.	Income after addition at the rate of 40% on account of future prospects	8,000 + 3,200 (8,000 x 40%) = 11,200/- p.m.
3.	Total income after 50% deduction on account of personal expenses of the deceased	11,200 - 5,600 = 5,600/- p.m.
4.	Total dependency after applying a multiplier of 18	5,600 x 12 x 18 = 12,09,600/-
5.	Funeral expenses	15,000/-
6.	Loss of estate	15,000/-
7.	Loss of consortium t	40,000/-
	Grand Total	Rs.12,79,600/-

Learned counsel for the appellant vehemently argues that once there was no proof of any income earned by the deceased, learned Tribunal has grossly erred in assessing the income of the deceased to be Rs.8,000/- per month. At best notional income of the deceased, at the rate of Rs.40,000/- per annum could have been assessed and compensation could be calculated accordingly. It is thus prayed that present appeal be allowed.

I have heard learned counsel for the appellant and have gone through the file with his assistance.

There is no dispute regarding the deceased being 16 years old at the time of his death in the accident, which took place on 13.09.2017, due to the rash and negligent driving of the offending truck bearing registration No. RJ-06-GA-4602, by its driver Jaheer Alam. PW-2 Mohammad Rafiq has testified to substantiate the claim. PW1 – father of the deceased has specifically deposed that his son was working as a cleaner of vehicle bearing registration No. HR-38-S-8815, earning a sum of Rs.10,000/- per month.

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Doubtlessly, there is no evidence on record to indicate the exact income earned by the deceased, who was 16 years old. At the same time, it cannot be ignored that there is no evidence on record to negate the stand of the claimants that the deceased was working as a cleaner on the vehicle bearing registration No. HR-38-S-8815. Learned counsel for the appellant is unable to deny that even the minimum wage of an unskilled labourer in the State of Haryana at the relevant time was Rs.8,280/- per month. The deceased was admittedly an able bodied healthy person. There is nothing on record to show that he could not earn the amount as assessed by the learned Tribunal. Thus, I do not find any ground what-so-ever to interfere in the assessment of the income of the deceased @ Rs.8,000/- per month, at the instance of the appellant.

Learned counsel for the appellant is unable to point out any illegality, perversity or infirmity in the impugned award 09.01.2019, passed by the learned Motor Accidents Claims Tribunal, Gurugram, which calls for any interference by this Court at the instance of the appellant-insurance company.

No other argument has been addressed.

Appeal is accordingly dismissed with no order as to costs.

September 06, 2019.

Sunil

**(LISA GILL)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No