

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

FAO No.5140 of 2019 (O&M)

Date of decision: 14.08.2019

National Insurance Company Ltd.

....Appellant

Versus

Jagdish and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sanjeev K. Arora, Advocate,
for the appellant-Insurance Company.

RITU BAHRI J. (Oral)

National Insurance Company Ltd.-appellant has filed this appeal against the award dated 20.03.2019 passed by the Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'the Tribunal') whereby compensation of Rs.18,84,400/- has been awarded in favour of the claimants-respondent Nos. 1 & 2 on account of death of Rajesh Kharb @ Surja in a motor vehicular accident which took place on 25.04.2017. Respondent Nos. 1 & 2 are parents of deceased Rajesh Kharb @ Surja.

Learned counsel for the appellant-Insurance Company argues that income of the deceased has been taken as Rs.12,000/- per month, whereas minimum wages as on 01.01.2017 in the State of Haryana were Rs.8280/- per month. Therefore, income of deceased at the rate of Rs.12,000/- per month, as assessed by the Tribunal, is on the higher side keeping in view that there was no direct evidence with regard to the fact that the deceased was doing any dairy work.

placed on record document Ex.P3 i.e. Diploma of Veterinary Livestock Development Assistant which was obtained by the deceased. Keeping in view this diploma, the income of deceased, at best, can be taken as a highly skilled labourer and not as an unskilled labourer. Minimum wages in the State of Haryana on 01.01.2017, were Rs.10,567/-. However, income of the deceased has been assessed as Rs.12,000/- per month keeping in view that there was no direct evidence with regard to the same. When compensation is calculated keeping in view the minimum wages in the lack of evidence, this is only to assess the earning capacity of the deceased. Even if, income is more, in the absence of any direct evidence, this is a safe criteria, which is being followed to assess the compensation. Therefore, this is not a valid ground to interfere in the impugned award.

Learned counsel for the appellant-Insurance Company further states that Ex.P3 has been issued by the Indira Gandhi National Open University on 08.06.2015.

It is not the case of Insurance Company that Ex.P3 is a fake certificate/document, therefore, it cannot assail the credibility of this document. After going through the impugned award, this Court is of the view that the compensation has been rightly awarded in favour of the claimants (respondent Nos. 1 & 2) and no ground is made out to interfere therein. The evidence has been appreciated in the right perspective.

Resultantly, finding no merits, the present appeal is dismissed.

(RITU BAHRI)
JUDGE

14.08.2019
ajp

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