

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 2228 of 2010

Date of Decision: January 25 , 2019.

The New India Assurance Company Ltd. APPELLANT (s)

Versus

Smt. Krishna and others RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Deepak Suri, Advocate
for the appellant.

Mr. Kunal Mulwani, Advocate
for respondents No.1 to 3.

None for respondents No.4 and 5.

LISA GILL, J.

This appeal has been filed by the Insurance company challenging award dated 22.12.2009 passed by the learned Motor Accident Claims Tribunal, Narnaul (for short, the 'Tribunal') awarding compensation to the claimants on account of death of Muni Ram in a motor vehicle accident.

Brief facts necessary for the adjudication of the case are that, the claimants/respondents No.1 to 3 filed a petition under Section 166 of the Motor Vehicles Act (for short, the 'Act') seeking compensation on account of death of Muni Ram, who lost his life in a motor vehicle accident which took place on 02.08.2007. FIR No.200 dated 02.08.2007 (Ex.P2) was lodged at Police Station

Vasco in respect to the incident. Learned Tribunal on consideration of the facts

and evidence on record held that the accident in question took place due to the rash and negligent driving of Canter No.GA-02V-7578 by respondent No.1-Ameenapa. There is no challenge to the finding of the learned Tribunal in this respect and the same has attained finality.

Learned Tribunal while assessing income of the deceased to be ₹22,500/- per month, awarded a total sum of ₹26,30,000/- as compensation to the claimants vide impugned award dated 22.12.2009. While taking the gross salary of the deceased-Muni Ram to be ₹18,856/-, it was observed that the amount towards statutory deduction is required to be excluded. Accordingly, monthly salary was taken to be ₹18,000/- per month. While assuming that after implementation of the recommendations of the 6th Pay Commission, there would be an increase of about 25% in the salary of the employees, income of the deceased was assessed as ₹22,500/- per month. Increment at the rate of 30% thereon was afforded on account of future prospects. Deduction to the extent of 1/3rd on account of personal expenses was effected. The deceased was aged 40 years at the time of the accident. Accordingly, multiplier of 14 was applied. ₹20,000/- was awarded to the claimants on account of medical expenses. ₹50,000/- was awarded towards transportation and funeral expenses, besides, ₹40,000/- on account of loss consortium as well as love and affection.

Sole argument raised by learned counsel for the appellant is that income of Muni Ram (deceased) has been wrongly assessed by the learned Tribunal. It is submitted that once an increase of 25% was effected to the monthly salary, there was no question of awarding further increase on account of future prospects at the rate of 30%. It is thus prayed that the amount of compensation

awarded to the appellants be reduced accordingly.

Learned counsel for respondents No.1 to 3 however prays for upholding the impugned award as the same, it is submitted, is reasonable and just in the facts and circumstances of the case. It is informed that no appeal/cross-objections have been filed by the claimants. Dismissal of the appeal is prayed for.

I have heard learned counsel for the parties and have gone through the record furnished in Court today.

It is a matter of record that the deceased Muni Ram was an employee with the Indian Coast Guard working at Shanti Nagar, Vasco (Goa). Liability of the insurance company has not been challenged. The deceased was admittedly 40 years old at the time of the accident. As per affidavit (Ex.PW2/A) submitted by PW2 Balram son of Ram Kumar, Subordinate Officer, Indian Coast Guard, Goa, the deceased Muni Ram was getting a salary of ₹13,736/- per month excluding a deduction of ₹5,120/- towards GPF, NGIS, festival advance etc. His gross salary was ₹18,856/- per month. PW2 Balram further stated that after the implementation of the 6th Pay Commission, pay of Muni Ram (deceased) was fixed at ₹26,884/- per month. His salary statement was produced as Ex.PW2/C. PW2 Balram also tendered a pay-slip of Hansdan, a batch-mate of the deceased Muni Ram, as PW2/B. In his cross-examination, PW2 stated that the deceased Muni Ram joined services as a Naik and was promoted as Uttam Navik, thereafter Pradhan Navik and Subordinate Officer. It was stated that the deceased was likely to be promoted as Uttam Adhikari.

Learned Tribunal while not assessing income of the deceased as ₹26,884/- per month i.e., after the implementation of the 6th Pay Commission,

chose to consider monthly income of Muni Ram (deceased) as ₹18,000/- per month and observed that as there would be an increase of 25% to 30% in the salary after the implementation of the 6th Pay Commission, added 25% to ₹18,000/- and assessed the salary of the deceased Muni Ram to be ₹22,500/- per month. Thereafter, an increase of 30% in income was afforded towards future prospects in terms of the judgment of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77**. Keeping in view the specific evidence which is available on record that after the implementation of the 6th Pay Commission, Muni Ram (deceased) was in receipt of ₹26,884/- per month, I do not find any merit whatsoever in the argument raised by learned counsel for the appellant that income of the deceased as assessed by the learned Tribunal should be reduced. It is fairly stated by learned counsel for the appellant that recommendations of the 6th Pay Commission were duly notified on 14.08.2008 w.e.f. 01.06.2006. The accident in question admittedly took place on 02.08.2007. There is no ground for reduction in the amount of compensation awarded to the claimants/respondents No.1 to 3.

Learned counsel for the appellant is unable to point out any illegality, infirmity or perversity in the impugned award dated 22.12.2009 passed by the Motor Accident Claims Tribunal, Narnaul.

Appeal is accordingly dismissed.

January 25 , 2019.
'om'

(**LISA GILL**)
JUDGE

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