

FAO No.2179 of 2013 (O&M)

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

FAO No.2179 of 2013 (O&M)
Date of decision: 11.09.2019

The Oriental Insurance Company Ltd.

.....Appellant

versus

Smt. Krishna and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Lalit Garg, Advocate, for the appellant.
Mr. Pankaj Jain, Advocate, for respondents No.1 to 4.

RAMENDRA JAIN, J. (ORAL)

Insurance Company through this appeal has laid challenge to award dated 06.02.2013 of the Motor Accident Claims Tribunal, Rohtak (for short 'the Tribunal'), whereby respondents No.1 to 4 – claimant were awarded compensation of ₹7,71,000/- along with interest at the rate of 7.5% per annum from the date of filing claim petition till realization against the death of Dharampal in a motor vehicular accident.

Learned counsel for the appellant *inter alia* contends that the Tribunal has erred in taking income of deceased Dharampal at ₹10,000/- per month in the absence of any documentary evidence on record. The same could not have been taken more than the prevalent minimum wages fixed by the Haryana Government on the date of accident, which were ₹5,000/- per month for a skilled workman.

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On the other hand, learned counsel for respondents No.1 to 4 – claimants has pleaded legality and validity of the impugned award.

Having given thoughtful consideration to the rival submissions, this Court is not inclined to interfere with the findings of the Tribunal for taking income of deceased Dharampal at ₹10,000/- per month, considering the fact that he was a labour contractor and president of the registered co-operative society. Taking of income of a deceased, who dies in a motor vehicular accident, always on the basis of prescribed minimum wages is not a rule of thumb, rather, only is a guiding factor. In the instant case, documentary proof qua development works executed by deceased Dharampal on contract basis was produced in the shape of cash book Ex.P10, proceedings register Ex.P-11. Therefore, his income has rightly been taken at ₹10,000/- per month by the learned Tribunal, discarding minimum wages fixed by the State Government.

Dismissed.

September 11, 2019
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No