

In the High Court of Punjab and Haryana, at Chandigarh

1. F.A.O. No. 301 of 2021 (O&M)
 ICICI Lombard General Insurance Company Limited
 ... Appellant(s)

Versus

Bhagwati and Others
 ... Respondent(s)

AND

2. F.A.O. No. 307 of 2021 (O&M)
 ICICI Lombard General Insurance Company Limited
 ... Appellant(s)

Versus

Pooja and Others
 ... Respondent(s)

DATE OF DECISION: 25.03.2021

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Rajbir Singh, Advocate
 for the appellant.

Anil Kshetarpal, J.

The insurance company has filed these two appeals assailing the correctness of a common award passed by the Motor Accident Claims Tribunal, Rewari (hereinafter referred to as “the Tribunal”), whereby two claim petitions, filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as “the 1988 Act”), were decided.

Two persons, namely Sh.Dev Anand and Narender Singh lost their lives in a motor vehicular accident between a motorcycle and a car. The deceased were travelling on the motorcycle.

Before this Court, the correctness of the finding of the Tribunal

It is also significant to note that the respondents, before the Tribunal, did not lead any oral evidence. Hence, the only question which needs consideration is as to what is the appropriate amount of compensation.

Late Sh. Dev Anand left behind his widow, aged father and a son, whereas late Sh. Narender Singh left behind his widow, two minor children of 4½ years of age and aged parents. The Tribunal, in the absence of any documentary evidence, relied upon the rates notified by the Deputy Commissioner for payment to casually employed unskilled workers to assess the income at ₹ 12,400/- per month. The accident took place on 03.10.2018.

Learned counsel, appearing for the insurance company, contends that the Tribunal erred in relying upon the D.C. Rates while ignoring the minimum wages. He relies upon a judgment passed in ***Shri Ram General Insurance Company Limited and Others v. Beant Kaur and Others 2019(3) S.C.T. 684.***

This Court has carefully examined the aforesaid judgment. In para 2 of the judgment, after framing the question involved, the Court, in para 15, held as under:-

“It has been held in a plethora of judgements by the Hon'ble Supreme Court that it is the duty of the tribunal/Court to award 'just compensation'. Motor Vehicles Act is admittedly a beneficial legislation, therefore to circumscribe the scope of assessment of income of the deceased/injured to the minimum wages as may be notified under the Minimum Wages Act would not be justified. Needless to say, assessment of income in cases where no specific

documentary evidence is led in support of the claim, such assessment would be dependent upon the facts and circumstances of each case. There may be instances where oral evidence alongwith other supporting evidence on record may inspire confidence. There has to be a sound evaluation of the oral evidence and supporting circumstances in the factual matrix of each particular case. The Tribunal/Court while keeping in view the minimum wage fixed under the Minimum Wages Act as the basic criterion at the outset would proceed to determine whether income of the deceased/injured is to be assessed at any higher level keeping in view the evidence on record. This in my considered view, would be the correct approach to follow in such cases”.

On plain reading of the aforesaid para, it is apparent that the Court went on to hold that the scope of the assessment of the income of the deceased cannot be restricted to the minimum wages as may be notified under the Minimum Wages Act, 1948.

In view of the above, it is apparent that in the aforesaid judgment, the Court never as a *ratio decidendi* laid down that the D.C. rates cannot be relied upon. Still further, the accident, in the present case, took place on 03.10.2018. Late Sh. Narender Singh was driving the motorcycle. In such circumstances, the assessment of compensation by the Tribunal needs no interference at the instance of the insurance company. Hence, both the appeals are dismissed. The statutory amount, so deposited while filing

The miscellaneous application(s) pending in both the appeals, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

March 25, 2021
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No