

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

ASHISH KUMAR  
2021.08.06 14:51  
I attest to the accuracy and  
integrity of this document

207

FAO-551-2021 (O&M)

Date of decision: 05.08.2021

UNITED INDIA INSURANCE COMPANY LTD.

..Appellant

Versus

SAROJ BALA AND ORS

..Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Sidhant Mehra, Advocate for the appellant.

Mr. Bhisham Kumar, Advocate for respondent No.1 to 3.

\*\*\*

**ANIL KSHETARPAL, J (Oral)**

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The insurer of the offending vehicle has filed this appeal assailing the correctness of the award passed by the Motor Accidents Claims Tribunal, Panipat (in short 'the Tribunal').

The correctness of the award has been challenged on the ground that the Tribunal has erred in deducting 1/3<sup>rd</sup> of the income of the deceased towards personal expenses. In this case, Mr. Ashish, aged about 24 years, died in an automobile accident on 25.10.2018. The claim petition was filed by the parents as well as his unmarried sister. The deceased's father is stated to be engaged in labour work. The deceased Ashish was the third child out of 4 children of Sh. Harish Kumar.

The learned counsel representing the insurer submits that as per the judgment passed by the Hon'ble Supreme Court in **Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009 (3) RCR**

(Civil) 77, the Tribunal erred in deducting  $\frac{1}{3}^{\text{rd}}$  of the income of the deceased towards personal expenses. He submits that unless exceptional circumstances come on record, the normal practice is to impose a cut off of 50% of the income.

The learned counsel representing respondent No.1 to 3(claimants) does not dispute the same.

Accordingly, the award passed by the Tribunal is modified to the extent that deduction to the extent of  $\frac{1}{2}$  of the income of the deceased shall be applied towards personal expenses. Hence, the amount is recalculated at Rs.13,61,550  $[(8542 \times \frac{1}{2}) \times 40\% \times 12 \times 18] + 70,000$ ].

In view thereof, the appeal is partly allowed. The award passed by the Tribunal is modified and reduced to the extent of Rs.4,30,617/-. Consequently, the amount of the award shall now be read as Rs.13,61,550.

All the pending miscellaneous applications, if any, are also disposed of.

05.08.2021

ashok

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)

JUDGE