

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

125

FAO-555-2021(O&M)

Date of decision: 20.12.2021

NEW INDIA ASSURANCE CO. LTD.

...Appellant

Versus

MALATI AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. R.C. Kapoor, Advocate
for the appellant.

ANIL KSHETARPAL, J (Oral)

This appeal has been filed by the Insurance Company assailing the correctness of compensation assessed by the Motor Accident Claims Tribunal, Chandigarh, (hereinafter referred to as 'the Tribunal') while allowing the claim petition filed under Section 166 of the Motor Vehicles Act, 1988. The Insurance Company does not dispute the involvement of the car and findings of the tribunal with regard to the rash and negligent driving of Rajni Kumrah (respondent no.5).

The learned counsel representing the appellant contends that the tribunal has, in the absence of any documentary evidence, assessed the income of the deceased at the rate of Rs.15,000/- per month and therefore, the award is liable to be modified.

Late Sh. Dwarika Prasad, aged about 29 years, lost his precious life in an automobile accident, on 05.03.2018. At the relevant time, the deceased was going on foot when he was mowed down by a car bearing number DL-3C-AB-6170. In order to prove the income of the deceased,

PW2-Sh. Bhai Lal, the brother of the deceased, entered the witness box. While deposing, he stated that his brother Dwarika Prasad was working as a painter and was earning Rs. 15,000/- per month. The deceased was hail and hearty, whereas he (the brother) is unable to do anything because of his own disability. Sh. Bhai Lal has claimed that he is handicapped, whereas his father is not in a position to earn anything because of his ill health. The tribunal, on the basis of the aforesaid evidence, assessed the income of the deceased and thereafter, reduced the amount by 50% in order to workout the dependency.

In order to verify the facts, the record of the tribunal was requisitioned.

The present claim petition has been filed by the parents, handicapped brother and an unmarried sister of the deceased. In other words, the deceased was taking care of the entire family. At the relevant time, he was working in the UT of Chandigarh, where the cost of living is high.

The learned counsel representing the appellant contends that the tribunal, in the absence of any evidence, was bound to rely upon the minimum wages notified under the Minimum Wages Act, 1948.

In the considered view of the Court, in the absence of any statutory provision, the tribunal is not bound to follow the minimum wages notified under the Minimum Wages Act, 1948. The tribunal is required to assess the compensation in accordance with the evidence produced. Even though, the notification with regard to minimum wages can be relied upon, however still, the tribunal is not bound to follow the same.

Keeping in view the condition of the family of the deceased and

the number of dependents, this court does not find it appropriate to interfere in the award passed by the Tribunal.

Hence, dismissed.

20.12.2021
nt/joyti

(ANIL KSHETARPAL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No