

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

FAO-3245-2021 (O&M)

Date of decision: 02.12.2021

Royal Sundaram General Insurance Company Limited
....Appellant

Versus

Sujan Singh and others
..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. D.K.Prajapati, Advocate for the appellant
Mr. Ashish Gupta, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

The Insurance Company assails the correctness of the award dated 01.10.2021 passed by the Motor Accidents Claims Tribunal, Mewat (hereinafter referred to as 'the Tribunal'), while allowing the petition under Section 166 of the Motor Vehicles Act, 1988. The claim petition was filed by Sujan Singh s/o Bahadur Singh, aged about 22 years. He lost his left leg in an automobile accident. The correctness of the findings of the Tribunal with regard to rash and negligent driving of the vehicle are not questioned. Learned counsel representing the appellant contends that the Tribunal erred in assessing the income of respondent no.1 at the rate of Rs.12,100/-. He submits that the Tribunal overlooked that the minimum wages under the Minimum Wages Act, 1948, at the relevant point of time, were Rs.8497.56 per month. He further submits that the Tribunal has erred in assessing the loss of earning capacity at 100% whereas as per the doctors, respondent no.1 had only suffered 60% disability.

On a careful reading of the judgment passed by the

Tribunal, it is evident that the Tribunal has relied upon the minimum wages as the notified by the Deputy Commissioner, Nuh, vide order dated 23.05.2018. These wages were notified with regard to any kind of unskilled labourer. Hence, it is evident that the Tribunal has assessed the income, in the absence of any other documentary evidence, at the rate notified by the Deputy Commissioner of the District. The notification issued under the Minimum Wages Act, 1948, can be relied upon by the Tribunal only for the purposes of guidance. Such notification is not binding on the Tribunal while assessing the income. The accident took place on 29.06.2018. Therefore, the Tribunal has not erred in relying upon the notification issued by the Deputy Commissioner of the District on 23.05.2018.

The next argument of the learned counsel representing the appellant is with regard to the assessment of 100% loss of earning by the Tribunal. It has come on record that respondent no.1 was doing physical labour. He is not a skilled labourer. He was a young boy of 20 years at the time of accident. On account of the loss of his left leg, he will not be able to perform his normal labour work. Furthermore, he has his whole life ahead of him, but he has been left crippled due to the automobile accident. Unfortunately, he will have to be dependent upon someone else throughout his life. In such circumstances, the Tribunal has not committed any error in assessing it to be a case of total loss of earnings, particularly when in normal circumstances, respondent no.1 cannot be expected to do physical labour anymore.

In view thereof, no ground to interfere is made out.

Hence, dismissed.

Needless to observe that amount of Rs.25,000/- deposited by the appellant while filing the present appeal be remitted to the Tribunal for onward disbursement.

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

02.12.2021

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE