

**139(2) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO-434-2022 (O&M)

Date of decision: 09.02.2022

New India Assurance Company Limited

....Appellant

Versus

Neelam and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Aseem Aggarwal, Advocate for the appellant

ANIL KSHETARPAL, J (Oral)

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

The Insurance Company assails the correctness of the award passed by the Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as 'the Tribunal'). The Tribunal has directed the Insurance Company as well as the owner and driver of the offending vehicle to pay compensation to the tune of Rs.23,54,800/- on account of death of Gurinder Singh, aged about 28 years. The finding of the Tribunal with regard to involvement of the vehicle, rash and negligent driving of the driver of the offending vehicle, are not being questioned. The only argument of the learned counsel representing the appellant is to the effect that the Tribunal has wrongly added Rs.3,000/- per month, which was the amount of rent paid by the deceased. He submits that once the deceased had taken the premises on lease and was paying the rent then the aforesaid amount was required to be deducted from his monthly income i.e Rs.9000/-.

This Bench has carefully read the findings of the Tribunal in

para 18. The Tribunal, after appreciating the evidence, has found that the deceased was technically qualified and was running a shop relating to electric goods. In the absence of documentary evidence, the Tribunal held that the minimum wages for a technically qualified man should be approximately Rs.9,000/- per month. Thereafter, the Tribunal took into consideration that the deceased was operating from the tenanted premises, while paying rent at the rate of Rs.3,000/- per month. After discussion, the Tribunal came to the conclusion that if a shopkeeper is paying rent at the rate of Rs.3000/- per month, it could be safely assumed that he must be earning Rs.12,000/- per month.

In the considered view of this Bench, in the absence of documentary evidence, the Tribunal is required to use some sort of thumb rule. The deceased was 28 years of age and he was self employed after getting technical qualification.

In view thereof, there is no error in the assessment made by the Tribunal.

Hence, dismissed.

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

09.02.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)

JUDGE