
IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

133 **FAO-402-2022 (O&M)**
Date of decision: 24.02.2022.

The Oriental Insurance Company Ltd.

... Appellant

Versus

Smt. Indu Bala and others

.. Respondents

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Brig. B.S. Taunque, Advocate for the appellant.

***

Anupinder Singh Grewal, J. (Oral)

Heard through video conferencing.

The appellant/Insurance Company has challenged the award of the Motor Accident Claims Tribunal, Rupnagar (for short, 'the Tribunal') whereby compensation of Rs.31,16,536/- along with interest @ 7.5% p.a. from the date of its filing till realization has been awarded to respondents No.1 to 3/claimants.

Learned counsel for the appellant contends that the gross salary of the deceased-Karan Singh was assessed as Rs.11,000/- per month which included allowances such as CA @ Rs.1,200/- which has been mentioned in the pay slip of the deceased as per Annexure A-1 and the same should have been deducted from the salary as it was not specifically mentioned whether 'CA' stands for conveyance allowance or compensatory allowance. Secondly, he submits that an amount of Rs.5,000/- which has been added to the income of the deceased as income from agriculture ought to have been excluded as the claimants did not lead any cogent evidence in that regard.

Heard.

The claimants/respondents had filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation for the death of deceased-Karan Singh on 06.04.2019 in a road accident. The deceased was travelling on his motorcycle and when he had reached Sehjowal at about 8.50 am, a car being driven in a rash and negligent manner had hit his motorcycle. The deceased was taken to hospital where he was admitted and was later declared dead. An FIR No.43 dated 06.04.2019, under Sections 279, 304-A, 427 IPC was registered at Police Station Nangal.

The Tribunal has assessed the gross salary of the deceased along with DA and other allowances as under:-

1.	The gross salary of the deceased as per salary slip Ex.PW1/B2	Rs.11,000/-
2.	Income from agriculture land as per revenue record and Jamabandi for the year 2017-18 (Ex.PX)	Rs.5,000/-
	Total income per month	Rs.16,000/-

The Tribunal awarded compensation to the tune of Rs.31,16,536/- under the following heads:

	Head of Claim	Amount
1.	Income as per month salary and income regarding loss of management of land	11,000 per month + 5,000/- Total income= 16,000/-
2.	Total income after addition at the rate of 40% on account of future prospects	16,000+6,400= 22,400/-
3.	Deduction on account of personal expenses, 1/3rd (dependents 3)	22,400 divided by 3= Rs.7,466/- 22,400-7400=14934/-

----

4.	Multiplicand	Rs.14,934x12= 1,79,208/-
5.	Total dependency after allying of multiplier of 17 (Age of deceased was 28 years, 5 months and 12 days at the time of accident at the time of accident)	Rs.1,79,208x17= 30,46,536/-
6.	Loss of estate	15,000/-
7.	Funeral expenses	15,000/-
8.	Loss of Parental consortium/Love and affection	40,000/-
	Total	**Rs.31,16,536/-**

The plea of the Insurance Company/appellant is that as per the pay slip of the deceased (Annexure A-1), Rs. 1,200/- was payable to the deceased as CA. Whether CA stands for conveyance allowance or compensatory allowance is not discernible from the material on record.

It is well settled that the amount which was paid to the deceased by his employer by way of perks would be included for computation of his monthly income. Reference to be made to the judgements of the Supreme Court in the cases of **National Insurance Company Ltd. Versus Indira Srivastava and others, 2008(2) SCC 763, Kalpanaraj and others versus Tamil Nadu State Transport Corporation, 2015(2) SCC 764 and Sunil Sharma and others versus Bachitar Singh and others, 2011(11) SCC 425** wherein it has been held that monthly income would include the perks paid to the employee.

Furthermore, the contention of the counsel for the appellant regarding wrongful addition of Rs.5,000/- per month as agricultural income of the deceased, cannot be accepted as the claimants had led sufficient evidence with regard to the deceased owning agriculture land. The *jamabandi* for the year 2017-18 had been placed on record as Ex.PX. The deceased was thus owning agricultural land and it is fairly common in an agrarian State like Punjab for persons who are employed elsewhere to do agricultural work, dairy farming and rearing of livestock. In any event a sum of Rs.5,000/- towards his agricultural income per month on account of his owning agricultural land and cultivating the same cannot be said to be excessive.

In view of the above, the findings of fact which have been recorded by the Tribunal do not call for interference and the appeal stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

24.02.2022
sonia gugnani

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No