

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

FAO No.3687 of 2022 (O&M)

Date of decision: 06.09.2022

The Oriental Insurance Company limited

..... Appellant

versus

Kavita and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Ram Avtar, Advocate
for the appellant.

Mr. Inderjit Sharma, Advocate
for the caveators/respondents No.1 to 3.

TRIBHUVAN DAHIYA J.

CM No.11249-CII of 2022

Prayer in this application is for condonation of delay of
19 days in re-filing of the appeal.

For the reasons stated in the application, the prayer is
allowed and delay of 19 days in re-filing of the appeal is condoned.

Application stands disposed of.

FAO No.3687 of 2022 (O&M)

This is an appeal filed by the Insurance Company against
the award passed by the Motor Accident Claims Tribunal, Ambala,

dated 01.04.2022, whereby compensation on account of death of Randeep Kumar @ Randeep has been awarded to respondents No.1 to 3/claimants.

2. The only argument raised by learned counsel for the Insurance Company is, the income of deceased as highly skilled worker has been assessed without there being any evidence on record to that effect. He has referred to the statement of Kavita, respondent No.1/ claimant (PW-1), stating that her husband was JCB driver employed with Bhoop Singh and was earning a salary of Rs.15,000/- per month. PW-3, Bhoop Singh (owner of the JCB Hydraulic Excavator) also appeared as a witness and deposed that deceased Randeep Singh was appointed as a driver on the JCB in the month of May, 2017 at a monthly salary of Rs.15,000/-. But the Tribunal has assessed the income of deceased as Rs.16,900/- by treating him to be a highly skilled worker.

3. A perusal of the award makes it apparent that it is a pleaded case of the respondents-claimants that the deceased was earning Rs.15,000/- per month being a JCB driver employed with Bhoop Singh, PW-3, who himself deposed that Randeep Singh was his driver earning a monthly salary of Rs.15,000/-. This being the pleaded and proven case of the respondents/claimants on record, there was no basis for the Tribunal to record a finding that the deceased was earning Rs.16,900/-. The fact of the deceased being a highly skilled worker is

not in dispute. However, only by virtue of his being highly skilled, he cannot be assumed to be earning more than what has been actually pleaded and proved on record. There is no basis at all for the Tribunal to hold that the deceased was earning Rs.16,900/- per month and assess the compensation on that basis. The finding being not based on any evidence whatsoever, is unsustainable and is, hereby, set aside.

4. Since, the monthly salary of the deceased has been duly established on record as Rs.15,000/- per month, the compensation awarded to respondents No.1 to 3/claimants is to be assessed on that basis. Respondents No.1 to 3/claimants are, therefore, held entitled to the following compensation as under:

1.	Name of the deceased	Randeep Kumar @ Randeep
2.	Date of Accident/Death	12.10.2018
3.	Monthly Income	15,000/-
4.	Annual Income	15,000/- x 12 = 1,80,000/-
5.	Future Prospects @ 40%	72,000/- (1,80,000 x 40 / 100)
6.	Total income including future prospects	2,52,000/-
7.	Deduction towards personal expenses @ 1/3 rd	1,68,000/-
8.	Multiplier @ 16	26,88,000/- (1,68,000 x 16)
9.	Loss of consortium	1,20,000/- (40,000/- each to respondents No.1 to 3)
10.	Loss of Estate	15,000/-
11.	Funeral Expenses	15,000/-
12.	Total	28,38,000/-/-

5. The award passed by the Tribunal dated 01.04.2022, therefore, stands modified and respondents No.1 to 3/claimants are held entitled to an amount of **Rs.28,38,000/-** with interest at the rate of

9% from the date of filing the claim petition till its actual realization, which shall be jointly and severally paid in the same ratio as directed by the Tribunal.

6. Resultantly, appeal filed by the appellant/Insurance Company is, hereby, disposed of.

(TRIBHUVAN DAHIYA)
JUDGE

06.09.2022

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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No