

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

113-2

FAO-4839-2022 (O&M)
Date of decision:11.11.2022

National Insurance Company Limited

..... Appellant

VS

Smt.Geeta Devi & others

..... Respondents

CORAM : HON'BLE MR. JUSTICE ALOK JAIN

Present :- Mr. Sanjeev K.Arora, Advocate
for the appellant

ALOK JAIN, J. :

The present appeal has been filed challenging the award dated 20.07.2022 passed by the Motor Accident Claims Tribunal, Karnal, granting compensation of Rs. 40,10,000/- to the claimant alongwith interest @ 8% p.a. from the date of filing of the claim petition till its realisation.

Briefly stated the facts are that one Rakesh Kumar son of Dayal Singh met with a road accident on 21.09.2018. The Learned Tribunal after detailed discussion of the evidence held that the accident was caused due to rash and negligent driving of respondent no. 6.

Learned counsel for the appellant has argued only on the account of quantum and submitted that the deceased was not a permanent employee and has relied upon the cross-examination of PW4, who was an accountant of the employer, to submit that the evidence especially the account statement demonstrates that the deceased was not a permanent employee and his income should have been taken from 01.09.2017 till 31.08.2018 and hence the Tribunal fell in error by taking the income at Rs. 2,40,000/- per annum instead of Rs.1,40,000/- per annum. He has further argued that at the best the deceased could have been taken as highly skilled worker and as per the Haryana Government notification dated 28.08.2018, the minimum wages were fixed at Rs. 10,901.52/-, which should have been calculated to the quantum of compensation.

Having considered the arguments, raised by the counsel for the appellant, the same are founded to be baseless. Learned Tribunal has rightly relied upon the fact that the deceased was qualified First Class Boiler Attendant and was drawing the salary to the tune of Rs. 20,000/- per month. The testimony of Krishan Kumar-PW4, Accountant of employer which could not be shattered qua the income of the deceased. More so, the notification with regard to minimum wages of skilled worker would come into play only if there would have been no evidence qua the employment and income of the deceased. The deceased remained in service from November, 2016 till March, 2018 which clearly demonstrates that he was drawing Rs. 20,000/- per month from

09.05.2017 onwards and hence there was no genesis or basis for applying the Minimum Wages Act notification or the DC rates to calculate the compensation payable.

In view of the above, finding no merit in the appeal, no illegality or infirmity in the award passed by the learned Tribunal, the present appeal being devoid of any merits, is dismissed.

Ordered accordingly.

(ALOK JAIN)
JUDGE

11.11.2022

neenu

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