

[120] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-245-2023

Date of Decision :20.01.2023

UNITED INSURANCE COMPANY LTD ...Appellant

Versus

SHYAM SUNDER AND ORSRespondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Varun Mittal, Advocate for
Mr. Vikas Mohan Gupta, Advocate for the appellant.

B.S. Walia, J. (Oral)

[1] Challenge in the appeal is to award dated 28.10.2022 passed by the learned Motor Accident Claims Tribunal, Gurugram (for short – “the Tribunal”) in case titled as Shyam Sunder and another vs. Satpal and others awarding compensation of Rs. 23,78,000/- along with interest @6% per annum from the date of filing of the claim petition till payment, on account of death of one Vipul aged 22 years.

[2] Learned Tribunal by taking into account that the deceased was an authorized distributor of Gopaljee Dairy Food Pvt. Ltd. which was run by his mother for selling milk and milk products in the name and style “Ananda” at L-101, 40 Futa Road, Chanakya Place, Part-II, New Delhi and was claimed to be earning Rs.30,000/- per month and the parents were dependent on the income of the deceased, besides, had incurred Rs.50,000/- on the transportation and last rites of the deceased etcas also that after the death of Vipul, the elder son of the claimants, dairy was being run by respondent No.1 along with his younger son and Rs. 15,000/-

was being earned per month from the said business, assessed income of the deceased @ Rs.15,000/- per month in the background of income tax return not having been produced nor any sale / net profit or balance sheet or any statement of profit and loss account having been placed on record by relying upon the decision of this Court in case titled as ***United Indian Insurance Company Ltd. vs. Rupinder Kaur and others, 2019 (2) TAC 71.***

[3] Learned counsel contends that the sole argument is that the income of the deceased taken into account was in excess and the same ought to have been Rs.10,450/- as admissible to a skilled worker in the State of Haryana at the relevant point of time.

[4] I have considered the submissions of learned counsel but am unable to agree with the same in view of the decision of Hon'ble the Supreme Court in ***Rajani and others vs. The Oriental Insurance Company Ltd. and others, Law Finder Doc ID #2051081.*** Deceased in said case was a pineapple cultivator and the learned MACT awarded compensation by taking into account income of the deceased @ Rs.12,000/- per month but the income taken into account was reduced to Rs.10,000/- per month by the High Court of Kerala. Hon'ble the Supreme Court was pleased to observe that where a person was a self-cultivating agriculturists, a robust view had to be taken of the quantum of earnings since documentary evidence may not be available. Relevant extract of the same is as reproduced as under:-

“3. In the present case, the deceased was a pineapple cultivator. The accident took place on 01.10.2015. In such matters, a robust view has to be taken of the quantum of earnings since documentary

evidence may not be available to specifically prove the quantum of earnings of a self-cultivating agriculturist. In our view, the income which was adopted by the MACT of Rs.12,000/- per month cannot be regarded as disproportionate or arbitrary. Hence, there was no justification for the High Court to interfere with the award by reducing the quantum of income of the deceased from Rs.12,000 to Rs.10,000 per month.

4. Having regard to the above circumstances, we are of the view that the total quantum of compensation of Rs.26,75,000/- should be restored and we order accordingly do so in view of the facts which are noted above.

5. The appeal is allowed in the above terms.”

[5] Likewise in connected Civil Appeal No.6195 of 2022, income of the deceased carpenter taken at Rs.15,000/- per month was reduced by Hon’ble the Kerala High Court to Rs.10,000/-. Hon’ble the Supreme Court was pleased to observe that the deceased was a carpenter and in a such like matter, a robust view had been taken on the quantum of earnings since documentary evidence may not be available to specifically prove the quantum of earnings of a self-skilled worker and that the income adopted by the MACT @ Rs.15,000/- per month could not be regarded as disproportionate or arbitrary, therefore, there was no justification for the High Court to interfere with the award by reducing the income of the deceased from Rs.15,000/- to Rs.10,000/- per month.

[6] In view of the position noted above, I am of the considered view that since the deceased was engaged in delivering milk from the dairy run by his mother, a robust view had to be taken of the quantum of

earnings as documentary evidence cannot be expected to be available to specifically prove the earnings of the deceased.

[7] Having regards to the facts of the case in entirety, I am of the considered view that income of the deceased taken into account by the learned MACT i.e. Rs.15,000/- cannot be regarded as disproportionate or arbitrary.

[8] Accordingly, finding no merit in the plea to interfere with the award to reduce the income of the deceased from Rs.15,000/- to Rs.10,000/- per month, the instant appeal is dismissed in limine.

(B.S. Walia)
Judge

20.01.2023
'Amit'

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