

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

FAO 4568/2019 (O&M)

Date of decision: 25.05.2023.

Cholamandlam MS General Insurance Co. Ltd.**.....Appellant****Vs.****Anant Kaur and others****.....Respondents****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Punit Jain, Advocate for the appellant
Ms. Sumati Jund, Advocate for the respondent
Nos. 1 to 5.

Nidhi Gupta, J.

Present appeal has been filed by the Insurance Company seeking setting aside of Award dated 8.4.2019 passed by Motor Accident Claims Tribunal, Rupnagar, (hereinafter referred to as 'the Tribunal') in MACT Case No. 184 dated 3.10.2018 filed by the claimants/respondent nos. 1 to 5 herein under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act').

2. By way of impugned Award, Id. Tribunal has awarded compensation of Rs.19,85,200/- to the claimants on account of death of Pawandeep Singh who was aged 31 years at the time of accident. Five claimants are the widow, three minor children, and mother of the deceased- Pawandeep Singh.

3. Ld. Tribunal on appraisal of facts, pleadings and evidence on record held that the deceased had died due to injuries suffered by him in motor vehicular accident that took place on 11.9.2018 due to rash and negligent driving of Mahindra Bolero Pick Up bearing registration No. HP-66-6595 being (hereinafter referred to as 'the offending vehicle') being driven by respondent no.6, owned by respondent no.7, and insured by the appellant herein. The Tribunal awarded compensation as above along with interest @ 12% per annum from the date of filing of the claim petition till realization. Liability to pay the compensation was joint and several.

4. Ld. Counsel for the appellant Insurance Company assails the impugned Award primarily on the ground that Ld. Tribunal has awarded interest at an exorbitant rate of 12% and the same ought to be 6% per annum. It is further submitted that though the claimants had pleaded before the Tribunal that the deceased was a Painter, however, no evidence was led by them in support of the said contention. It is submitted that therefore, at best the income of the deceased could have been assessed as Rs.7800/- per month as that of unskilled labourer whereas, the Ld. Tribunal has taken income of the deceased on the higher side as Rs.9500/- per month as that of skilled labourer.

5. No other argument has been raised.

6. Heard ld. Counsel.

7. Perusal of the impugned Award shows that age of the deceased was found to be 31 years at the time of death. Though, it was the pleaded case of the claimants before the Tribunal that deceased was working as a Paint Contractor and was earning Rs.25,000/- per month, however, as claimants led no evidence in support of that contention, ld. Tribunal took

income of the deceased as Rs.9500/- per month. Perusal of the record reveals that claimants had examined PW3 Bahadur Singh who deposed that he was working as Painter with the deceased and used to pay him Rs.500/- per day as daily wages. Admittedly, this is unorganised sector and proof of income is always not maintained in unorganised sector. Moreover, relevant Minimum Wage Notification has not been produced by the Id. Counsel for the appellant in support of his contention that the income of the deceased is on the higher side. As such, I find no error in the income as assessed by the Ld. Tribunal.

8. As the deceased was 31 years at the time of his death, Ld. Tribunal has correctly made addition of 40% towards future prospects in accordance with judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v Pranay Sethi and others (2017) 16 SCC 680**, and further correctly applied multiplier of 16 in accordance with judgment of the Hon'ble Supreme Court in **Sarla Verma vs. Delhi Transport Corporation (2009) AIR (SC) 3104**. As claimants were five in number, Ld. Tribunal correctly made deduction of 1/4th towards personal expenses. Ld. Tribunal has further granted a sum of Rs.70,000/- under the conventional heads. I find the compensation as granted above to be just and fair, and in accordance with law, as laid down by the Hon'ble Supreme Court.

9. Ld. Tribunal further granted interest @ 12% per annum on the compensation as awarded above, to the claimants. As regards rate of interest awarded by the Ld. Tribunal, Section 171 of the Act reads as under:-

“171. Award of interest where any claim is allowed. -

Where any Claims Tribunal allows a claim for compensation made under this Act, such Tribunal may direct that in addition to the amount of compensation simple interest shall also be

paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf”.

10. Clearly, as per the provisions of Section 171 of the Act, grant of interest by the Tribunal is discretionary, and does not call for any interference by this Court.
11. Accordingly, I find no ground is made out to interfere in the impugned Award.
12. **Dismissed.**
13. Pending application, if any, stands disposed of.

25.05.2023
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned	Yes
Whether reportable	Yes/No