

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.278

Case No. : FAO-5303-2019 (O&M)

Date of Decision : September 19, 2023

New India Assurance Company Limited Appellant
vs.

Manorama Devi and others Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Pradeep Kumar, Advocate
for the appellant.

Mr. G. S. Randhawa, Advocate
for Mr. Paras Jagga, Advocate
for respondents no.1 and 2/claimants.

* * *

GURBIR SINGH, J. :

1. This appeal has been filed by Insurance Company challenging the Award dated 02.05.2019, passed by learned Motor Accident Claims Tribunal, Patiala (hereinafter referred to as – “learned Tribunal”).

2. The learned Tribunal, on the basis of evidence led on the file, came to the conclusion that Keshav Ram had died in a motor vehicular accident, which took place on 26.10.2017, due to rash and negligent driving of a car bearing registration no.PB-11-TC-457, registered in the name of respondent no.4. The claimants, being mother and a lunatic brother, as per evidence led on the file, were dependents upon the deceased. It was further held that the deceased was only 22 years old at the time of death. He was working as a plumber. No document was placed on the file regarding his

income. He was treated as a skilled worker. His monthly income was assessed as Rs.9300/-, as per the notification issued by the State Government, being minimum wages of a skilled worker. Although he was unmarried, keeping in view dependency of his brother being lunatic, 1/3rd of his income was deducted as personal expenses and multiplier of 18 was adopted. Compensation of Rs.19,04,880/- was granted by including Rs.30,000/- under conventional heads, loss of estate and funeral expenses.

3. Learned counsel for the appellant has challenged the findings of learned Tribunal on the ground that the deceased was unmarried. So, 1/2 of his income was required to be deducted as personal expenses. He was only a student. He was not working as a plumber. His income could not be taken as minimum wages of skilled worker. So, his income was required to be taken as minimum wages, applicable at that time, to an unskilled worker i.e. Rs.7623.50 paise per month. Both Manorama Devi (CW-1) and Sanjay Kumar (CW-2) admitted in their cross-examination that the deceased was studying at CTI Nardu. He was student at the time of accident. The receipt (Ex.C-13) proved by the claimants shows that he was a student at Shivalik Institute for Training of Trainers, Bir Kauli, Patiala.

4. Learned counsel for the claimants/respondents no.1 and 2 submitted that the deceased had passed ITI Course of plumber. The Certificates (Ex.C-10 and Ex.C-11) are with regard to passing of 1st and 2nd Semester. Relieving Certificate is Ex.C-12. He was doing plumbing work including work of sanitary fittings on contracts. There is no rebuttal to the said evidence. He also joined higher course to improve his qualification but

he was doing plumbing work as well.

5. I have heard the submissions of learned counsel for the parties and perused the case file.

6. Manorama Devi (CW-1) has specifically stated in her cross-examination that her son was working as a plumber. He was a student at the time of accident and has taken admission in CTI Nardu. She had no documentary proof regarding income of the deceased. Claimant Sanjay was examined as CW-2. He has also stated that the deceased was studying at CTI Nardu for the last 2-3 days, on the day of accident. They had come from Sarkaghat to leave deceased for the course. The claimants also examined Subhash Chand (CW-3), who deposed that he was running a Sanitary and Hardware Store. He used to call the deceased for providing services to his customers. He also stated that he could not produce any record regarding income of the deceased. Since there is no documentary proof on the file regarding income of the deceased and Subhash Chand is running business at Village Chandes, Tehsil Sarkaghat, District Mandi (HP), whereas the deceased had taken admission in a course in District Patiala (Punjab), may be a few days prior to the accident, but it would not be possible for the deceased to go out for doing work. The deceased was only a student but qualified plumber. So, his income is required to be assessed at the rate, what an unskilled worker used to get in those days, which is Rs.7623.50 paise per month, which can be rounded-off as Rs.7625/- per month. The learned Tribunal has wrongly taken the monthly income of the deceased as Rs.9000/- per month. Since a lunatic brother was also

dependent upon the deceased, so, learned Tribunal has rightly deducted 1/3rd of his income as personal expenses. Hence, the amount of compensation can be calculated as under :-

Income per month	=	Rs.7625/- (rounded-off)
1/3rd deduction on account of personal expenses	=	Rs.2541.66 paise Rs.2542/- (rounded-off)
So, income per month	=	Rs.5083/-
40% addition on account of future prospects	=	Rs.2033/-
Monthly income	=	Rs.7116/-
After applying multiplier of 18	=	Rs.(7116 x 12 x 18) Rs.15,37,056/-
Loss of Estate	=	Rs.15,000/-
Funeral Expenses	=	Rs.15,000/-
TOTAL COMPENSATION	=	Rs.15,67,056/-

7. In view of what has been stated above, this appeal is partly allowed. The claimants are held entitled to compensation of Rs.15,67,056/- along with interest as awarded by the learned Tribunal, till realization of amount and amount shall also be paid as per the directions of learned Tribunal.

8. The appeal stands **partly allowed** in the above terms.

9. Pending applications, if any, shall stand disposed of along with this judgment.

September 19, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.

