

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

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FAO No.3901 of 2022 (O&M)
DATE OF DECISION : 13th FEBRUARY, 2023

The New India Assurance Company Limited

.... Appellant

Versus

Smt. Rachhpal Kaur and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Satpal Dhamija, Advocate
for the appellant.

* * * *

RAJBIR SEHRAWAT, J. (Oral)

The present appeal has been filed by the appellant-Insurance Company against the award dated 18.05.2022 passed by the Motor Accident Claims Tribunal, Chandigarh (for short, the Tribunal), whereby total amount of ₹31,58,375/- along with interest @ 8% per annum has been awarded to respondent Nos.1 to 4 as compensation on account of death of Parminder Singh, who died in a motor vehicle accident.

The sole argument raised by learned counsel for the appellant is that the Tribunal has wrongly taken the income of the deceased as ₹20,000/- per month. Since, there was no evidence led on file, therefore, the Tribunal should have gone by the minimum wages prescribed at that time. At the best, the deceased could have been taken as

a semi skilled or highly skilled person. Even than the income of ₹20,000/- per month, as assessed by the Tribunal was not justified.

Having heard the counsel for the appellant and having perused the case file, this Court does not find any substance in the argument raised by the counsel for the appellant. This argument has to be discarded for a simple reason that the claim petition contains a particular version qua employment of the deceased as Transporter and Driver of the heavy vehicle. Wife of the deceased has duly deposed the fact as to the deceased being Transporter and Driver of the heavy vehicle. PW-2 Rakesh Sharma, who was employed as Cleaner by the deceased on his vehicle has also been examined to corroborate the wife of the deceased. Moreover, even the bank statement of the deceased has been placed on record to show the continuous inflow and outflow of the amounts for the period of past about two years. Therefore, it cannot be said that the present case is a case of no evidence qua employment or income of the deceased. Therefore, the Tribunal is not wrong in assessing the income of the deceased to be ₹20,000/- per month.

Otherwise also, there is nothing on record before the Tribunal to substantiate any minimum wages or the wages for skilled and semi skilled persons. Any argument *de hors* the material on record before the Tribunal cannot be raised and entertained in the first appeal. Moreover, the concept of minimum wages or the statutory wages would come into play only in case there is total absence of evidence qua employment and the income of the deceased. The present case is not a case of no evidence; qua employment of the deceased. Hence, otherwise

also, the concept of the minimum wages or statutorily prescribed wages would not be applicable in the present case.

No other argument was raised.

In view of the above, finding no merit in the present appeal, the same is dismissed.

All pending miscellaneous application(s) stands disposed of as such.

13th FEBRUARY, 2023
‘sandeep’

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>