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

**FAO-4843-2022 (O&M)**

Date of decision : 17.01.2023

National Insurance Co. Ltd.

... Appellant

Versus

Narinder Kaur and others

.. Respondents

**CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present:- Mr. Gopal Mittal, Advocate for the appellant.

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**Anupinder Singh Grewal, J. (Oral)**

The appellant/Insurance Company has challenged the award dated 28.07.2022 passed by the Motor Accidents Claims Tribunal, Hoshiarpur (for short, 'the Tribunal') in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the MV Act') on account of death of Swaran Singh.

Learned counsel for the appellant submits that the compensation is on the higher side inasmuch as the income of the deceased had been taken as Rs.18,000/- per month although no evidence in that regard had been produced by the claimants. He also submits that the deceased was sitting on the mudguard of the tractor-trolley and was responsible for contributory negligence in the accident. He further submits that although the driver of the offending vehicle had a licence to drive heavy vehicle but endorsement for driving a hazardous vehicle was not there.

Heard.

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The deceased was a young man of 22 years of age when he had expired in an accident involving a tractor-trolley and an oil tanker on 15.02.2020. The deceased is stated to have been sitting on the mudguard of the stationary tractor-trolley when an oil tanker being driven in a rash and negligent manner hit the tractor from behind. The deceased is survived by his aged parents and an unmarried sister. It was the case of the claimants that the deceased was the only son of his parents and was doing agricultural work and looking after milch animals for selling milk and earning an amount of Rs.20,000/- per month. Although in the cross-examination, it had been admitted by the claimant that the deceased did not own any agricultural land but the same could not be enough to conclude that the income of the deceased of Rs.18,000/- per month as assessed by the Tribunal would be excessive. The deceased was indulged in agricultural activities and looked after milch animals for selling milk. Even if he did not own agricultural land and was employed for the agricultural work on someone else's land and sold milk for his livelihood, the income of the deceased has been rightly assessed. The Tribunal has relied upon the judgment of Allahabad High Court in the case of **Shrikrishna versus Surendra Singh and others**, bearing FAFO No.83 of 2012, decided on 25.03.2014 wherein it is held that an agriculturist cannot be treated as an unskilled labourer.

I take a judicial notice of the fact that even the wages of farm labour/casual labourers in the State of Punjab are quite high and therefore, the income of Rs.18,000/- per month would not be excessive.

I do not accept the contention of the counsel for the appellant that the deceased, who was sitting on mudguard of the stationary tractor-trolley,

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would be liable to contributory negligence as the tractor had been hit from behind by the offending oil tanker in a rash and negligent manner. It cannot be construed that the deceased while sitting on the mudguard of the stationary tractor-trolley had contributed to the accident.

The offending vehicle was an oil tanker and the driver had a licence to drive heavy transport vehicle and it is not necessary to have an endorsement with regard to hazardous vehicle. This Court in the case of **Balwan Singh versus M/s Bajaj Allianz General Insurance Co. Ltd. and others**, bearing FAO No.1210 of 2014, decided on 26.03.2018 had held that when the driver of the offending vehicle had a licence to drive a transport vehicle, no endorsement authorizing him to drive a vehicle carrying inflammable/hazardous goods is required.

Consequently, I do not find any merit in this appeal which stands dismissed along with miscellaneous application.

**(ANUPINDER SINGH GREWAL)**  
**JUDGE**

**January 17, 2023**

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|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether Reportable        | : | Yes/No |