

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-5151-2022 (O&M)
Date of Decision :13.01.2023

National Insurance Company Ltd

...Appellant

Versus

Rajia and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vinod Gupta, Advocate for the appellant.

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Harsimran Singh Sethi, J. (Oral)

The present appeal has been preferred challenging the award dated 02.09.2022 passed by the Motor Accident Claims Tribunal, Karnal. Learned counsel for the appellant argues that in the present case, the criteria which has been adopted by the Tribunal to assess the income of the deceased is incorrect.

Learned counsel for the appellant submits that in the present case, neither the minimum wages fixed by the State of Haryana nor the minimum wages fixed by the Deputy Commissioner of a particular district has been taken into account so as to assess the income of the deceased. Learned counsel for the appellant argues that a new formula has been carved out by the Tribunal so as to assess the income of the deceased as per which, wages fixed under the Minimum Wages Act, 1948 by the State and minimum wages fixed by the Deputy Commissioner of a particular district is to be divided by two to assess the income of the deceased, which has never been heard of hence, the said criteria adopted by the tribunal to ascertain the

income of the deceased so as to calculate the compensation is totally arbitrary and illegal hence, the award passed by the tribunal is liable to be set aside.

I have heard learned counsel for the appellant and have gone through the record with their able assistance.

Though, a novel method has been adopted by the tribunal to assess the income of the deceased but the same cannot be treated as arbitrary and illegal especially, when no prejudice shown to have been caused to the appellant as nothing has been projected before this Court during the hearing.

Even otherwise, the same criteria has been held to be a valid criteria by the Coordinate Bench of this Court while passing order in FAO-200-2016 titled as **Reliance General Insurance Co. Ltd vs. Salochna and others** on 25.03.2019. Relevant paragraphs of the judgement are as under:-

“Today, such calculation is sought to be placed on record by Mr. Kodan, learned counsel for the appellant-insurance company, showing the total compensation payable to be Rs.9,43,600/-. However, learned counsel for the respondent-claimants having relied upon the aforesaid judgment of the Supreme Court, in the opinion of this Court, it would be appropriate to take the monthly income figures of Rs.8100/- (as had been taken by the Tribunal to be minimum wage on the basis of the District Collectors' rates (which is normally applicable to Government organizations employing casual labour) and the minimum wage as contained in the communication of the Labour Commissioner, Haryana (which though not given a specific exhibit number on the last date of hearing, is shown to be Ex.A-1 in the application filed for that purpose). Consequently, it is accepted as Ex.A-1, it not having been refuted by the learned

counsel for the respondents and it being accepted as a true communication from a Government authority.

7. Thus, seeing the disparity between Rs.5547/- and Rs.8100/-, a sum of Rs.6800/- is taken to be the deceaseds' monthly income, even though Mr. Kodan, learned counsel for the appellant-insurance company has vehemently opposed that figure. However, this Court having taken a mean between the 'District Collectors' rates' and the rates given by the Labour Commissioner, in my opinion, the amount of Rs.6800/- is considered appropriate to be taken as the sum that may have been earned by the deceased at the time of his death, i.e. in May 2014.”

Once, the criteria adopted by the tribunal has already been approved by the Coordinate Bench of this Court in Salochna and others (supra), the same cannot be treated arbitrary and illegal. A criteria already approved by this Court has been put into operation to assess the income of the deceased in this case which cannot be treated as arbitrary and illegal rather the same is in consonance with the settled principle of law settled by the Coordinate Bench of this Court in Salochna and others (supra) hence, cannot be treated illegal or perverse in any manner.

No other argument has been raised.

Keeping in view the above, no interference is called for by this Court and the appeal is accordingly dismissed.

January 13, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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