IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

108 **FAO-5341-2022 (O&M)**
Date of decision : 20.02.2023

Reliance General Insurance Company ... Appellant

Versus

Krishan and others .. Respondents

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Sanjeev Kodan, Advocate for the appellant.

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Anupinder Singh Grewal, J. (Oral)

The appellant/Insurance Company has challenged the award dated 10.11.2022 passed by the Motor Accidents Claims Tribunal, Rewari (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 Yogesh Kumar.

Learned counsel for the appellant submits that the income which has been assessed by the Tribunal as Rs.22,500/- per month is on the higher side especially when the account statement and the attendance register had not been placed on record by the claimants. In support of his submission, he has relied upon the judgment of this Court in the case of **Sarla Rani and others versus Charan Singh and another, 2015(7) RCR (Civil) 888.** He further submits that the interest which has been imposed @ 7% p.a. is on the higher side and interest @ 6% p.a. would be appropriate. In support of his submission, he has relied upon the judgment of the Supreme Court in the case of **Smt. Shantaben and others versus National Power Transport and another, 2019(5) SCC 623.**

Heard.

The deceased who was driving a motorcycle was hit from behind by the offending vehicle being driven in a rash and negligent manner. The accident had taken place on 15.07.2021 at 02.30 pm. FIR No.176 dated 15.07.2021, under Sections 279, 304A IPC was lodged at Police Station Kasola. The deceased is survived by wife and a minor daughter who had filed the claim petition stating that the deceased was drawing a salary of Rs.35,000/- per month. He is stated to have been appointed as Site Supervisor with SLK Engineers, Pvt. Ltd., Gurugram on 01.10.2017 at a total salary of Rs.16,000/- per month. The appointment letter had been duly proved as Ex.P8. The salary certificate of the deceased had also been produced as Ex.P9 wherein it was stated that he was drawing a consolidated salary of Rs.22,500/- which included Rs.15,000/- as basic salary and Rs.7,500/- as house rent allowance. His provident fund contribution was Rs.1,800/- per month. In the light of documentary evidence with regard to salary of the deceased, I do not find any infirmity in the award of the Tribunal assessing the monthly income of the deceased as Rs.22,500/-.

The judgment relied upon by the counsel for the appellant in the case of **Sarla Rani and others versus Charan Singh and another(supra)** would not be applicable as no record of the firm had been proved while in the instant case, the appointment letter dated 01.10.2017 (Ex.P8) whereon the deceased was initially appointed had been proved on record and the salary certificate at the time of his death (Ex.P9) had also been proved on record. A minor discrepancy in the cross-examination with regard to salary being paid through the bank transfer (account) would not persuade this Court to take a contrary view to the assessment of monthly income at Rs.22,500/-. No evidence in rebuttal had been brought on record by the appellant. The deceased was stated to be working in an Engineering Company at Gurugram and it is a matter of common knowledge that the wages of employees working in Gurugram are on the higher side.

The judgment relied upon by the counsel for the appellant in the case of **Smt. Shantaben and others versus National Power Transport and another(supra)**, is also distinguishable on facts as the accident had occurred in the year 1987 and the Supreme Court while enhancing the compensation in 2019 had directed to pay interest @ 6% p.a. The Supreme Court in the case of **N. Jayashree and others versus Cholamandalam MS General Insurance Company Ltd., 2021 AIR (SC) 5218** had granted interest @ 7.5% p.a. In the instant case, interest has been granted @ 7% p.a. which cannot be said to be excessive or on the higher side.

Consequently, I do not find any merit in this appeal which stands dismissed. However, the amount deposited by the appellant/Insurance Company would be transferred to the Tribunal.

Pending application(s), if any, shall also stand disposed of accordingly.

(ANUPINDER SINGH GREWAL)
JUDGE

February 20, 2023
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No