

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

FAO-1429-2024

Date of Decision: 09.04.2024

ORIENTAL INSURANCE COMPANY LTDAPPELLANT

VS

AMARJEET AND ANOTHERRESPONDENTS

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Ashwani Talwar, Advocate for the appellant.

Mr. Dheeraj Narula, Advocate for the respondents.

GURBIR SINGH, J.

1. This appeal is filed against the award dated 05.12.2023 passed by MACT Sirsa Haryana whereby the claimants have been awarded a compensation of Rs.15,83,400/- on account of death of Tej Pal due to motor vehicle accident.

2. Brief facts which are necessary for the disposal of this appeal are that as per the case of the claimants, on 22.02.2019 at about 5.00/5.30 P.M, the son of the petitioner, Tej Pal (since deceased) was going to his village Sikanderpur from Fatehabad on his motor cycle being driven by him at a moderate speed and correct left side of the road and his cousin was following him on a separate motor cycle. After crossing the village Moriwala, when the deceased was going on service road, meanwhile a truck came from Sirsa side and struck against the motorcycle of the deceased.

Consequently, Tej Pal fell down on the road along with motorcycle. He was brought to Govt. Hospital Sirsa where he was declared dead. The FIR regarding the accident was also registered against respondent No.2-driver and owner of the truck. Respondent No.2 contested the petition on the ground that he has not caused any accident as alleged in the petition and his vehicle was falsely involved in this case. The case was registered against him to get the compensation. The appellant-Insurance Company contested the petition on the ground that there is collusion between the claimant and respondent No.2 to grab the compensation. The driver of offending truck was not holding a valid and effective driving license at the time of accident. On the basis of evidence led on the file the learned Tribunal came to the conclusion that the accident was caused by respondent No.2 by driving truck in a rash and negligence manner. The deceased was 29 years old at the time of his death and no proof of income of the deceased was brought on the file so deceased was treated as laborer. In view of the order of Deputy Commissioner, Sirsa dated 14.05.2018, the wages of labourer were notified as Rs.10,500/- so his income was considered as Rs.10,500/- per month. 40% of the income was added as future prospects by adopting a multiplier of 17. 50% of the income was deducted as personal expenses. The total compensation of Rs. 15,83,400/- was granted.

3. Learned counsel for the appellant-Insurance Company has argued that Tribunal while assessing the income of the deceased has relied upon the minimum wages of the Deputy Commissioner, Sirsa rather than considering the minimum wages fixed by Labour Commissioner under the Minimum Wages Act. The tribunal has wrongly assessed the income of the

deceased as Rs.10,500/- per month as per minimum wages fixed by Deputy Commissioner, Sirsa.

4. Learned counsel for the claimant/caveator has submitted that the question of assessing income on the basis of fixation of minimum wages by the Deputy Commissioner was subject matter before the Coordinate Bench of this Court in FAO NO. 3583 of 2022 along with other connected cases and the same was decided 26.08.2022. In that case, minimum wages fixed by the concerned Deputy Collector was taken into consideration and the appeal was dismissed. The Insurance Company filed SLP No.42225/2022. The Hon'ble Supreme Court dismissed the SLP on 27.02.2023.

5. I have heard the submissions made by the learned counsel for the parties.

6. The learned Tribunal relying on the order of Deputy Commissioner Sirsa dated 14.05.2018 considered the monthly income of the deceased as Rs.10,500/-. The extract of the order is as under :-

“So, it cannot be accepted that he was earning Rs. 14,000/15,000/- per month and he shall be treated as labourer only. As per order of the Deputy Commissioner, Sirsa dated 14.05.2018, labourer is mentioned at Sr.No.9 and has been sanctioned Rs.10500/- as pay/wages per month for 2018-2019. This letter was endorsed to various departments of Haryana and Chandigarh, vide Endst.No.296-318/DN dated 14.05.2018, which includes a copy to Accountant General, Haryana at Chandigarh at Sr.No.6 and All Head of Offices in District in Sirsa mentioned at Sr.No.10. So, the deceased will be considered as a labourer with monthly income of Rs.10500/- (on account of death occurred before March, 2019 which comes to Rs.1,26,000/- per year.”

7. The deceased was resident of Sirsa. There was no evidence brought on the file by the appellant or respondent No.2 that minimum wages notified by the Labour Commissioner under the Minimum Wages Act are required to be taken into consideration for assessing the income of the deceased instead of rates notified by the Deputy Commissioner, Sirsa. In FAO No.3583-2022, it is held by the Coordinate Bench of this Court that tribunal is not bound to accept the minimum wages notified under the minimum wages by the Labour Commissioner. The Tribunal is required to analyze the evidence in the peculiar facts of the case and decide the income. The SLP filed against the said judgment titled as United India Insurance Co. Ltd. Vs. Amarjit & Ors was dismissed. Thus, the learned Tribunal has rightly relied upon the rates notified by the Deputy Commissioner Sirsa, where the deceased was residing.

8. In view of above, I do not find any illegality in the order passed by the learned Tribunal. The appeal is without merit and dismissed accordingly.

09.04.2024
renu

(GURBIR SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>