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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **MAC.APP. 275/2024**

NISHA SHARMA & ORS. Appellants
Through: Mr. Anshuman Bal and Ms.
Divya Saini, Advocates.

versus

UNITED INDIA INSURANCE COMPANY LTD & ORS.
..... Respondents
Through: Mr. Yuvraj Sharma, Adv. for
Mr. Pankaj Seth, Adv. for R-1.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER
% **22.05.2024**

CM APPL. 31084/2024 (Ex.)

1. Allowed, subject to all just exceptions.
2. The application shall stand disposed of.

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3. The appellants/claimants, who are the legal heirs of the deceased Gagan Sharma @ Gagan Jangra, have preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 assailing the impugned judgment-cum-award dated 16.03.2024 passed by the learned Presiding Officer, Motor Accident Claims Tribunal-02, West District, Tis Hazari Courts, Delhi¹.
4. Learned counsel for respondent No.3/United India Insurance Company Limited is present on advance notice. None appeared for respondents No.1 and 2 i.e., the driver and registered owner of the



offending vehicle respectively.

5. Learned counsel for the appellants/claimants has urged that the learned Tribunal has erroneously reckoned the minimum wages applicable in the State of Uttarakhand so as to factor notional income for the purposes of assessing compensation under the head 'loss of financial dependency'.

6. In order to appreciate the plea advanced by the learned counsel for the appellants/claimants, it would be apposite to reproduce the relevant observations made by the learned Tribunal, which are as under:-

“22. Petitioner/PW-1 Smt. Nisha Sharma (wife of deceased) has deposed in her evidence by way of affidavit (Ex.PW1/A) that her deceased husband was aged about 44 years at the time of accident and he was working as a Manager in Jhangra Dharamshala, Haridwar and was earning Rs.25,000/- per month, In her cross examination done by Ld. Counsel for the respondent 1no0.3, PW-1 stated that she did not have any documentary proof regarding the employment and income of her . deceased husband, Thus, admittedly, there is no document filed and proved on record to show the vocation and income of the deceased. Further, no other witness was got examined by the petitioner to substantiate her plea for the alleged employment and income of her deceased husband. Although, as per his Aadhar card, the given address of deceased Sh. Gagan Sharma was of Delhi, however, admittedly, he was working in Hardiwar, Petitioners have failed to bring any documentary proof or cogent evidence on record to show the vocation and income of the deceased. Thus, for want of cogent and definite evidence being led by petitioners with regard to actual vocation and monthly income of deceased, this Tribunal assesses the income of the deceased to be at parity with minimum wages of Unskilled person in the State of Uttarakhand which at the time of accident was Rs. 9,211/- per month, (i.e. applicable rates for adult workers in Towns of more than 1 Lakh Population).”

7. At the outset, this Court finds that the impugned judgment-cum-award does not suffer from any patent illegality or perversity, nor does it adopt any incorrect parameters in law. Evidently, the deceased

¹ Tribunal



was 44 years of age at the time of the accident and if the testimony of PW-1 i.e. wife of the deceased is believed, he was working at Jhangra Dharamshala, Haridwar. Although, the learned Tribunal found that no evidence has been led to substantiate that the deceased was earning Rs. 25,000/-, the fact remains that the deceased was employed in State of Uttarakhand.

8. Therefore, the assessment of minimum wages applicable to an unskilled person as prevalent in the State of Uttarakhand @ Rs. 9,211/- at the time of accident, which occurred on 25.12.2021, cannot be said to be suffering from any vice of illegality. The plea taken by the learned counsel for the appellants/ claimants that if the learned Tribunal disbelieved that the deceased was earning Rs. 25,000/- per month, no inference could have been drawn that he was working in the State of Uttarakhand, does not cut any ice. Merely for the fact that the deceased was otherwise residing in Delhi does not afford ground to the appellants/claimants to seek application of minimum wages for an unskilled workman as prevalent in Delhi during the relevant time.

9. Accordingly, the present appeal is devoid of any merits and the same is dismissed in *limine*.

DHARMESH SHARMA, J.

MAY 22, 2024

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