



FAO-1805-2024 (O&M)
DATE OF DECISION : 03.09.2025

SHRI RAM GENERAL INSURANCE COMPANY LTD.
... APPELLANT
V/S
LAXMI PAL AND OTHERS ... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Gaurav, Advocate for
Mr. Rajbir Singh, Advocate for the appellant.

Mr. Ashish Gupta, Advocate for respondent Nos.1 to 3.

* * *

PARMOD GOYAL, J. (ORAL)

Present appeal has been preferred by the appellant-Insurance Company challenging the award dated 21.09.2023 passed by Motor Accident Claims Tribunal, Gurugram (hereinafter referred to as ‘the Tribunal’) in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988, whereby claim petition by the claimants was partly allowed.

2. Learned Tribunal vide the impugned award dated 21.09.2023 had awarded following compensation under the following heads:-

Loss of income to the family	Rs.24,20,000/-
Compensation under the conventional heads	Rs.70,000/-(Rs.15,000/- + Rs.40,000/- + Rs.15,000/-)
Increase in respect of amount under the conventional heads due to inflation up to the extent of 10%	Rs.7,000/- (10% of Rs.70,000/-)
Amount spent on treatment	Rs.10,000/-
Total amount of compensation	Rs.25,07,200/-

3. Deceased was 22 years old and it was claimed that he was

working with Mahadev Indane Gas Agency, Gurugram, drawing a salary of Rs.12,000/-. Taking income of the deceased as Rs.12,000/-, learned Tribunal applied 40% towards future prospects, deducted 1/3rd towards personal expenses and keeping in view age of deceased to be 22 years, applied multiplier of 18 and awarded total compensation of Rs.24,20,000/- as loss of dependency.

4. Learned counsel for the appellant-Insurance Company contended that income of the deceased has been excessively assessed as Rs.12,000/- per month by the learned Tribunal. It is further contended that except for oral assertions by the claimants, there is no evidence available on record which shows that deceased was working with Mahadev Indane Gas Agency, Gurugram and was earning Rs.12,000/-. It is the case of appellant-Insurance Company that in the absence of any substantive evidence to prove vocation and income of the deceased, learned Tribunal ought to have taken minimum wages payable to unskilled worker in the year 2018 when the accident had occurred as income of deceased. Accordingly, it is asserted that claimants are entitled to compensation after taking monthly income of deceased to be Rs.8,542/- i.e. minimum wages payable to an unskilled worker at the relevant point of time.

5. Learned counsel for the respondents-claimants has, however, opposed the appeal on the ground that learned Tribunal after considering evidence has rightly concluded income of the deceased to be Rs.12,000/- p.m.

6. On consideration, I find that there is no material to conclude that deceased was earning Rs.12,000/- p.m. except for oral statement of respondents-claimants. Employer of deceased, who was stated to be

Mahadev Indane Gas Agency was not examined nor any appointment letter or material showing payment of salary through bank account has been placed on record.

7. In the absence of any corroborative evidence to the ocular claim of the claimants, the learned Tribunal has erred in taking the income as asserted by claimants. The learned Tribunal ought to have taken Rs.8,542/- minimum wages payable to unskilled worker in 2018 as income of deceased. Accordingly, the award is liable to be corrected. The income of the deceased ought to have been taken as equivalent to minimum wages payable to unskilled worker in the year 2018. I also find error in judgement of learned Tribunal in awarding consortium only to claimant/respondent No.1- wife, however, respondent No.2 father and respondent No.3 minor son of deceased have not been awarded compensation for consortium. Both are entitled to filial and parental consortium of Rs.40,000/- each. Accordingly, respondents-claimants are entitled to compensation of Rs.18,72,168/- as under:-

Income of deceased	Rs. 8,542/- per month as per minimum wages to unskilled worker	Rs. 8,542/-
Addition towards future prospects	40%	Rs. 8,542/- + Rs.3417/- = Rs.11,959/-
Deduction on account of personal expenses of deceased	1/3rd (11,959/- - 3,986/-)	Rs.11,959/3 - - Rs.3,986/- = Rs.7973/-
Selection of multiplier	18	18
Loss of dependency	Rs.7973/- x 18 x 12	Rs. 17,22,168/-
Loss of Estate	Rs. 15,000/-	
Funeral expenses	Rs. 15,000/-	

Loss of spousal consortium to claimant No.1	Rs. 40,000/-	
Loss of filial and parental consortium to claimants No. 2, 3	Rs. 40,000/- x 2	Rs.80,000/-
Total compensation awarded to the claimants in appeal		Rs. 18,72,168/-
Total compensation awarded by the Tribunal		Rs.25,07,200/-
Difference in amount of compensation awarded by Tribunal and in appeal		Rs.6,35,032/-

8. However, it is made clear that amount already paid to the claimants to the extent of Rs.20,00,000/- under interim order shall not be recovered. Claimants shall be entitled to 7.5% interest from date of filing of petition till realisation. After payment of compensation amount granted by this Court along with interest, excess amount lying deposited with Tribunal be paid back to Insurance Company by learned Tribunal/Executing Court.

9. Appeal is, accordingly, disposed off in above terms. Pending miscellaneous application(s), if any, shall also stand disposed of.

03.09.2025
Janki

(PARMOD GOYAL)
JUDGE

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