IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-1948-2025 (O&M)
Reserved on : 10.11.2025
Pronounced on : 16.12.2025

Anjali and others ...Appellants

Versus

Surender and others ...Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Narender Kaajla, Advocate for the appellants.

Mr. Punit Jain, Advocate for respondent No.3.

HARPREET KAUR JEEWAN, J.

1. The appellants are the legal heirs of Sunil Kumar, who died in a motor vehicle accident. They are seeking modification of the Award dated 24.02.2025 passed by the Motor Accident Claims Tribunal, Hisar *(hereinafter referred to as 'the Tribunal')*, whereby an amount of Rs.20,78,400/- has been awarded as compensation to the appellants along with interest @ 7% per annum from the date of filing the claim petition, till its realization.

2. The issue involved in the present appeal primarily relates to the determination of compensation awarded by the Tribunal.

3. The facts to the relevant extent are such that on 26.03.2022, at about 11.00 p.m., Sunil, since deceased, was going on Eicher vehicle and was hit by a Truck bearing registration No.HR39-E-8798 *(hereinafter referred to as the 'truck')*, which came from the opposite side and was being driven by its driver in a rash and negligent

manner. Sunil died at the spot. The driver of the truck fled leaving the truck behind. An FIR bearing No.369 dated 27.03.2022 under Sections 279, 304A IPC was registered at Police Station Sadar, Hisar. The appellants filed claim petition seeking compensation from the driver, owner and insurer of the truck. The petition was contested by the driver, owner and the Insurance Company and ultimately, the Tribunal awarded compensation as under: -

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	Rs.13,500/-
2.	Future prospects @ 25%	Rs.16,875/- (Rs.13,500/- + Rs.3,375/-)
3.	Deduction 1/3rd	Rs.11,300/-
4.	Annual income	Rs.1,35,600/-
5.	Multiplier of '14'	Rs.18,98,400/-
6.	Loss of dependency	Rs.18,98,400/-
7.	Consortium	Rs.1,44,000/- (Rs.48,000/- x 3)
8.	Transportation and Funeral charges	Rs.18,000/-
9.	Loss of estate	Rs.18,000/-
	Total Compensation	**Rs.20,78.400/-**
	Interest @ 7% per annum	

4. Learned counsel for the appellants contends that the deceased was a driver by profession and he possessed a Heavy Driving License, which was produced during the evidence of the petitioner-appellants as Ex.P-11. Even the wife of the deceased had testified regarding the income of the deceased, however, the said evidence has been ignored by the Tribunal while assessing the monthly income of the deceased as Rs.13,500/- on the basis of minimum wages notified by the State Government. While placing reliance on the decision of the Hon'ble Apex Court in ***Chandra @ Chanda @ Chandraram & Anr. Vs. Mukesh Kumar Yadav & Ors., (2022) 1 SCC 198***, it is contended that

income of the deceased should be determined on the basis of oral statement of wife of the deceased.

5. *Per contra*, learned counsel for the Insurance Company contends that the income has been rightly considered by the Tribunal as there was no documentary evidence to prove the same as Rs.25,000/- per month. Reliance has been placed on the decision by the Apex Court in ***Manusha Sreekumar and ors. vs The United India Insurance Co.Ltd., (2022) 17 SCC 321***.

6. I have considered the aforesaid submissions and perused the paper-book.

7. The Tribunal has assessed notionally the income of the deceased as Rs.13,500/- per month on parity with minimum wages earned by a Heavy Vehicle Driver in the State of Haryana on the date of accident.

8. The Hon'ble Apex Court in ***Chandra @ Chanda @ Chandraram (supra)*** has held that in the absence of a salary certificate, the minimum wage notification can be a yardstick, but as the same time, cannot be an absolute one to fix the income of the deceased. In absence of documentary evidence on record, some amount of guess work is required to be done. But at the same time, the guess work for assessing the income of the deceased should not be totally detached from reality. The following observations were made by the Hon'ble Apex Court:-

> *"9. It is the specific case of the claimants that the deceased was possessing heavy vehicle driving licence and was earning*

Rs.15,000/- per month. Possessing such licence and driving of heavy vehicle on the date of accident is proved from the evidence on record. Though the wife of the deceased has categorically deposed as AW 1 that her husband Shivpal was earning Rs.15,000/- per month, same was not considered only on the ground that salary certificate was not filed. The Tribunal has fixed the monthly income of the deceased by adopting minimum wages notified for the skilled labour in the year 2016. In absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be an absolute one to fix the income of the deceased. In absence of documentary evidence on record some amount of guesswork is required to be tone. But at the same time the guesswork for assessing the income of the deceased should not be totally detached from reality. Merely because the claimants were unable to produce documentary evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income. There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs. 15,000 per month."

9. While relying upon the observations in ***Chandra @ Chanda @ Chandraram (supra)***, keeping in view the import of Section 57 of the Indian Evidence Act, 1872 and while taking judicial notice of the provisions of the Kerala Motor Transport Workers' Payment of Fair Wages Act, 1971 *(for short, the Kerala Fair Wages Act)*, the Hon'ble Apex Court in ***Manusha Sreekumar (supra)*** has also assessed the income of the deceased notionally as prescribed in minimum pay scale of the workers in the Kerala Fair Wages Act. The income was assessed by treating the driver as a 'skilled worker'. The observations are as under:-

"19. Applying the above parameters to the instant case, there exists sufficient evidence to show that the Deceased, undoubtedly, was a fish vendor-cum-driver with a valid license. The certificate issued by the Kerala Motor Transport Workers Welfare Fund Board,

certifying the Deceased as the driver of light motor goods vehicle bearing Registration No. KL-36-B-7822 under the ownership of one Shri Prakashan has been proved on record. Further, the Deceased had also paid all his subscriptions to the Board from April 2012 until the month he died. We find no reason to doubt that the Deceased was a driver at the time of his death. This Court in Chandra Alias Chanda Alias Chandraram and Anr. v. Mukesh Kumar Yadav and Ors. (2022) 1 SCC 198, has aptly held that in the absence of a salary certificate, the minimum wages notification along with some amount of guesswork that is not completely detached from reality shall act as a yardstick to determine the income of the deceased. In this context, keeping in view the import of section 57 of the Indian Evidence Act, 1872, we take judicial notice of the provisions of the Kerala Fair Wages Act, especially section 2 thereof which defines the following expressions:-

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20. Schedule B-Category III of the Kerala Fair Wages Act classifies a driver as a "Skilled worker". Reading this in conjunction with the Notification that came into effect from 01.01.2015 which amended Schedule A of the Kerala Fair Wages Act, prescribing a minimum pay scale of the workers listed in Schedule B, it is apparent that a `driver' in Kerala earned a minimum of Rs. 15,600/- in 2015. It appears to us that the aforesaid Act and the notification issued thereunder were not brought to the notice of the Tribunal or the High Court. As a result thereto, the High Court could not be cognizant of the statutory mandate prescribing minimum wages for a skilled worker like `driver', and thus, erred in fixing the income of the Deceased at Rs.10,000/-. We are therefore inclined to fix the income of the Deceased notionally at Rs. 15,600/- per month."

10. This Court in ***Paramjit Kaur and others Vs. Satpal and others***, FAO 1619 of 2002, decided on 08.08.2023 also observed that where no evidence is brought on record by the claimants to prove the income of the deceased, minimum wages prevalent in the state at the time of the accident should be considered to determine the monthly income of the deceased. The observations are as under:-

"25. This Court has also gone through the judgment of the co-ordinate bench of this Court in Ram General Insurance Company Ltd. V. Beant Kaur, 2020 ACJ 2163: Law Finder Doc Id # 1434464, wherein it was held that the in cases where no evidence is brought on record by the claimants to prove the income of the deceased/ injured, it is the minimum wages as fixed under the Minimum Wages Act which should be taken as a 'primary' guiding factor while assessing the income of the deceased. For the sake of convenience, Para 11 and 12 of the judgment is reproduced herebelow:

> *"11. There is merit in the proposition that in cases where no evidence is brought on record by the claimants to prove the income of the deceased/injured, it is the minimum wages as fixed under the Minimum Wages Act which should be taken as the 'primary' guiding factor while assessing the income for the purpose of calculation of the compensation to be awarded under the Motor Vehicles Act.*
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> *12. At the same time, it is not possible to hold that in all situations where no documentary evidence is brought on record, it is the minimum wage as fixed under the Minimum Wages Act which alone is to be assessed as the income of the deceased/injured dehors the facts and circumstances of a particular case. Doubtlessly, minimum wage fixed under the Minimum Wages Act provides a sound criterion/guideline and benchmark to assess the income of the deceased/injured in such cases, but at the same time, the tribunal/Court cannot be confined or restricted to the same. It is open to the tribunal/Court to assess the income at a rate which may be higher than the minimum wage so notified keeping in view the evidence on record in that particular case."*

26. Thus, in view of the law laid down by the Apex Court and followed by coordinate Bench of this Court, this Court is of the view that <u>for the purpose of assessing the amount of compensation payable to the claimants, minimum wages prevalent in the state at the time of the accident should be considered to determine the monthly income of the deceased.</u> In the case in hand, accident occurred on 14.02.1998 in the jurisdiction of the Police Station, Rajpura, Punjab, thus, the minimum wages prevalent in the state of Punjab at the time of accident is applicable. ....."

(Emphasis supplied)

11. Coming to the facts of the present case, no doubt, the deceased was driving a truck at the time of the accident and he is stated to be holding a driving license, Ex.P-16 for driving a heavy vehicle, no presumption can be drawn that he was earning Rs.25,000/- as stated by the claimant-wife of the deceased. In the cross-examination, Anjali (PW-1) wife of the deceased has shown her inability to produce any documentary evidence regarding the income of her husband.

12. The counsel for the Insurance Company contends that the income has been considered on a higher side since the minimum wages for a skilled worker as on 01.01.2022 were Rs.12,888.97/- per month as per the notification dated 08.04.2022 issued by the Labour Department, Government of Haryana.

13. The contentions urged on behalf of the Insurance Company that the minimum wages were on lower side as such, the income should be reduced cannot be accepted since the Insurance Company has not filed any appeal against the findings of the Tribunal, as such, this Court is not inclined to decrease the quantum of compensation by determining the income of the deceased as Rs. 12,888.97/- instead of Rs.13,500/- as determined by the Tribunal. Therefore, findings of the Tribunal regarding determination of the monthly income of the deceased require no interference.

14. There is no dispute regarding the findings of the Tribunal regarding age of the deceased as 41 years and the findings that the claimants who are his wife, minor daughter and aged mother, respectively, were dependent on him. As such the deduction towards

personal expenses to the extent of 1/3rd and the multiplier of '14' has been rightly applied. There is no reason to re-determine the compensation awarded towards the conventional heads.

15. The Award of the Tribunal is well-reasoned, and no interference is required on the findings of facts and law. The present appeal is devoid of any merits and is accordingly dismissed.

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

16.12.2025 **[HARPREET KAUR JEEWAN]**
atulsethi **JUDGE**

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No