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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****FAO-2041-2025 (O&M)****Date of Decision: 01.04.2025**

SBI General Insurance Company Limited

....Appellant

Versus

Anita Devi and Others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Ms. Manvi Verma, Advocate for
Ms. Vandana Malhotra, Advocate
for the appellant.

VIKRAM AGGARWAL, J (ORAL).

The present appeal is directed against the award dated 16.01.2025 passed by the Court of learned Motor Accident Claims Tribunal, Hisar (for short 'MACT') vide which the claim petition preferred by respondents No.1 and 2/claimants (hereinafter referred to as the 'claimants') under Section 166 of the Motor Vehicles Act, 1988 (for short 'MV Act') for the grant of compensation on account of the death of their son Deepak was partly allowed and a sum of Rs. 19,80,500/- was awarded as compensation.

2. Claimants filed a petition under Section 166 of the MV Act for the grant of compensation of Rs.1 Crore on account of death of their son Deepak. It was averred that on 06.11.2021, Deepak alongwith his friends namely Sonu, Kismat, Sahil and Virender @ Sonu were coming from Shimla to Hisar in a car bearing registration No.HR-86A-5207 which was being driven by Deepak. When they reached near Narwana Bye-pass Road, a Tractor Trolley bearing registration No.UP-11BU-9486 (hereinafter referred to as the 'offending vehicle') was going ahead of the car which was being driven by Deepak. While the offending vehicle was being overtaken, it took a sudden right turn without giving any signal or any

indicator. As a result of the same, the car struck into the offending vehicle and all occupants suffered multiple injuries. The driver of the offending vehicle (respondent No.3) fled from the spot. A person sitting on the tractor is also stated to have fallen off from the tractor and expired. Two persons namely Deepak and Virender @ Sonu also expired at the spot. FIR No.317 dated 07.11.2021 was registered at Police Station, City Narwana under Sections 279/304-A, 337 and 427 IPC. Deepak was stated to be 23 years old at the time of the accident. It was claimed that he was a graduate and was earning Rs.30,000/- per month by giving tuitions. The claimants, being the parents of the deceased, claimed Rs. 1 Crore as compensation.

3. The respondents opposed the claim petition. While raising preliminary objections as regards cause of action, *locus standi*, estoppel, mis-joinder and non-joinder of parties etc., the averments were denied so was the factum of the accident. The insurance company also opposed the claim petition and took its usual defences. The factum of the accident was denied.

4. From the pleadings of the parties, following issues were framed:-

“1. Whether the accident in question occurred due to rash and negligent driving of the offending vehicle bearing registration No. UP-11BU-9486 resulting into the death of Deepak son of Om Parkash? OPP

2. Whether the petitioners are entitled to compensation? If so, to what extent and from whom? OPP

3. Whether the respondents No.1 and 2 have violated the terms and conditions of the insurance policy absolving respondent No.3- Insurance company from its liability to pay the amount of compensation? OPR 3

4. Relief.”

5. Parties led their respective evidence.

6. The MACT allowed the claim petition awarding Rs.19,80,500/- as compensation. It was held that the accident as a result of which Deepak had expired, had taken place on account of the rash and negligent driving of the

offending vehicle by its driver (respondent No.3). The age of the deceased was assessed as 18 years. It was found that he had cleared his 10+2 and was a student of B.A. First Year. The monthly income was assessed on the basis of minimum wages of an under graduate student prevailing in the State of Haryana i.e. Rs.415.69/- per day which came to a total of Rs.12,470/- per month. 40% was added towards future prospects and after applying the ratio laid down by the Supreme Court of India in the cases of ‘*National Insurance Company Limited Vs. Pranay Sethi and Others*’, 2017 (4) RCR (Civil) 1009 and ‘*Sarla Verma and Others Vs. Delhi Transport Corporation and Another*’, 2009 (3) RCR (Civil) 77, the income was assessed as under:

Sr. No.	Heads	Calculation (In Rs.)
(i)	Income	12,470/- per month
	After addition 40% future prospects	17,458/- per month
(ii)	50% of the (i) deducted as personal expenses of the deceased	17,458-8, 729=8,729/- per month
(iii)	Compensation after multiplier of ‘18’ is applied	8,729 x 12 x 18 = Rs.18,85,464/-
(iv)	Loss of Estate	15,000/-
(v)	Loss of consortium to petitioners No.1 and 2	80,000/- (Rs.40,000/- to each of the petitioner).
(vi)	Funeral expenses	15,000/-
	Total Compensation Awarded	Rs.19,80,464/- Rounder off Rs.19,80,500/-

7. I have heard learned counsel for the appellant.
8. The sole argument raised by learned counsel for the appellant is that minimum wages as regards an unskilled worker should have been taken to be the notional income of the deceased. Learned counsel submits that for, no proof of the avocation of the deceased was produced, the only option with the MACT was to assess the compensation by taking the deceased to be an unskilled worker.
9. I have considered the submissions made by learned counsel for the appellant but find the same to be devoid of merit.

10. In claim petitions preferred under the MV Act which is a welfare legislation, certain amount of guess work has to be resorted to. The deceased was a young boy of 18 years of age. He is survived by his unfortunate parents who shall have to bear the loss of their son for the whole of their lives. No amount of compensation would be sufficient to compensate their loss. However, as regards the compensation assessed by the MACT, I do not find any error in the same. Having assessed the age of Deepak to be 18 years, his income, in the absence of any proof being there, was assessed at Rs.12,470/- per month, which, was the minimum wages @ Rs.415.69 per day. I have perused the chart produced by learned counsel for the appellant as per which, Rs.415.69/- was the daily wages of a semi-skilled worker in Category B. Having cleared 10+2 and being a student of B.A. First Year, he could not have been taken to be an unskilled worker. The MACT could very well have assessed the notional income on the basis of his prospects. Be that as it may, that would be a matter to be considered in case an appeal is preferred by the claimants. As regards the assessment of monthly income by the MACT is concerned, the same is found to have been assessed in accordance with settled law.

In view thereof, I do not find any merit in the present appeal and the same is accordingly dismissed.

(VIKRAM AGGARWAL)
JUDGE

01.04.2025

Prince Chawla

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.