IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2932 of 2025 (O&M)
Date of Decision: 03.07.2025

The Oriental Insurance Company Limited

…Appellant

Versus

Seema and others

…Respondents

AND

FAO No. 2943 of 2025 (O&M)

The Oriental Insurance Company Limited

…..Appellant

Versus

Anju Rani and others

……Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. D.P. Gupta, Advocate
for the appellant(s) (in both appeals).

****

VIKRAM AGGARWAL, J (ORAL)

Both afore-titled appeals assail the award dated 03.01.2025 passed by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the MACT'), vide which claim petitions preferred under Sections 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'MV Act') were allowed.

2. In a motor vehicular accident which took place on 22.12.2021, two young persons namely Rustam @ Rustam Khan and Yash Kanojia unfortunately expired. Two claim petitions were instituted, one by the widow, minor son, minor daughter and parents of Rustam @ Rustam Khan

for the grant of compensation of ₹ 80,00,000/- and the second claim petition was preferred by the parents of Yash Kanojia who claimed compensation of Rs. 1 Crore.

3. On 22.12.2021, one ASI Lachman Singh received telephonic information that two young boys were lying dead, having suffered accidental injuries at T-Point, Green Belt, Sector-4, Karnal. He, along with HC Rohtash reached the spot where he found two dead bodies of young boys and a damaged motorcycle lying at the spot. Information was sent to the Police Station City, Karnal.

4. On 23.12.2021, Sultan Singh gave a statement that on 22.12.2021, he, his son Rustam and friend Yash had gone to Karnal for some work. After completion of the work, they started back from Karnal. Rustam and Yash were on a motorcycle bearing registration no. HR-91-7382 make TVS Apache, whereas Sultan Singh was on a separate motorcycle bearing registration No. HR-05-AC-9267, make Bajaj Platina. When they reached near Pankaj Filling Station *via* service lane, a Canter bearing registration No.HR-45-C-4567 (hereinafter referred to as the 'offending vehicle') which was being driver by its driver at a very high speed and in a rash and negligent manner, came from the opposite side i.e., the wrong side of the road and struck against the motorcycle which was being driven by Rustam. Both Rustam and Yash fell on the road and the offending vehicle dragged the motorcycle for a long distance. He noted the registration number of the offending vehicle. Rustam and Yash succumbed to the injuries at the spot.

5. After the registration of the FIR, investigation was carried out and thereafter final report under Section 173 Cr.P.C., was submitted against the driver of the offending vehicle.

6. The claim petition was opposed. In the written statement filed by the driver and owner of the offending vehicle (respondents No.1 and 2 in the claim petition) (respondents No.6 and 7 in the present appeal), the factum of the accident was denied. The insurance company also filed its written statement raising its usual defences, while denying the factum of the accident.

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

> ***"1. Whether accident in question took place on 22.12.2021 in the area of P.S City Karnal due to rash and negligent driving of offending canter bearing registration No. HR-45C-4567 on the part of respondent No.1 resulting into death of Rustam and Yash Kanojia?OPP***
>
> ***2. If issue No. 1is proved, whether the claimants are entitled to any compensation, and if so how much and from whom? OPP***
>
> ***3. Whether the claim petitions are not legally maintainable in the present form?OPR***
>
> ***4. Whether the claimants have got no locus standi and cause of action to file the claim petition ?OPR***
>
> ***5. Whether the claim petitions are bad for mis-joinder and non-joinder of necessary parties? OPR***
>
> ***6. Whether the respondent No.1 was driving the offending vehicle in violation of the terms and conditions of the insurance policy and is not having a valid driving license on the alleged date of accident ?OPR(3).***

7. Relief."

8. Parties led their respective evidence.

9. The MACT held that the accident on account of which Rustam and Yash had expired had taken place on account of the rash and negligent driving of the offending vehicle by its driver. As regards quantum of compensation, the age of Rustam was held to be 24 years. He was stated to be a salesman in Vivo Company for the last 5-6 years prior to his death. EPF statement, Ex.P-6 was produced and his salary was stated to be Rs.11,219/- per month. His income was otherwise claimed to be Rs.20,000/- per month. However, since the last salary statement was not produced, his income was assessed on the basis of the rates prescribed by the Deputy Commissioner, Karnal which was Rs.15,954/- per month. After deducting amount for personal expenses and assessing compensation in terms of the principles laid down in the case of ***National Insurance Company Vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009*** *and* ***Sarla Versma Vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 777,*** a sum of ₹36,88,432/- was awarded as compensation.

10. Yash Kanojia was claimed to be 21 years old at the time of the accident and it was stated that he was working as an electrician and earning Rs.50000/- per month. The MACT assessed his age as 21 years. Since there was no proof of his income, though it was claimed that he had been working as an electrician, his income was also assessed based upon the rates prescribed by the Deputy Commissioner, Karnal which was Rs.15,954/- per month. After deducting amount for personal expenses and assessing compensation in terms of the principles laid down in the case of ***National Insurance Company Vs. Pranay Sethi and others (supra)*** and ***Sarla Versa***

Vs. Delhi Transport Corporation and another (supra), a sum of Rs. 24,42,288/- was awarded as compensation.

11. Since the driver of the offending vehicle was found to be having a valid driving license, the liability of paying the insurance was held to be that of the Insurance Company.

12. Aggrieved by the said award, the insurance company has preferred the instant appeals.

13. The sole argument addressed by learned counsel for the appellants is that the MACT erred in assessing the income of the deceased on the basis of rates prescribed by the Deputy Commissioner, Karnal, whereas the income should have been assessed based upon the minimum wages prescribed by the State Government.

14. This Court has considered the arguments put forth by learned counsel for the appellants but finds the same to be devoid of merit. There are certain judgments wherein it has been held that the wages were to be assessed on the basis of the minimum wages prescribed under the Minimum Wages Act, 1948 as the wages fixed by the Deputy Commissioner are meant for payment of wages out of the contingency and cannot, therefore, be a guiding factor for assessment of compensation in cases of motor vehicular accidents. This view was also taken by a Coordinate Bench of this Court in the judgments relied upon by learned counsel for the appellant in the cases of ***FAO No.2377 of 2017 tilled as National Insurance Co. Ltd. v. Jameet Ram and others decided on 25.04.2018 and FAO No.3239 of 2016 tided as New India Assurance Co. Ltd. v. Smt. Surd Devi and others decided son 29.05.2018.*** However, in a catena of judgments, a contrary view has been taken. In the case of ***National Insurance Company Ltd. v. Meena Devi and***

others bearing FAO No.782 of 2022 decided on 11.03.2022, a Coordinate Bench of this Court was seized of a similar issue. The only contention raised by the Insurance Company therein also was the one which has been raised in the present case. Reliance was also placed in that case upon the judgment of this Court in the case of ***Shri. Ram General Insurance Company Ltd. and others v. Beant Kaur and others 2019 (3) SCT 684***. The Coordinate Bench discussed many other judgments of the Hon'ble Apex Court especially the judgments in the case of ***Jakir Hussein v. Sabir and others 2015 (7) SCC 252, Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance Company Ltd. 2011 (13) SCC 236*** and ultimately came to the conclusion that the minimum wage notification is merely a yardstick and not an absolute factor to be taken to determine the compensation payable to the claimants. It was held that as laid down by the Hon'ble Apex Court, the Courts must strike a balance between inflated and unreasonable demands of the victims and the equally untenable claim of the opposite party saying that nothing is payable. It was held that the award must be just, which would necessarily intake that the compensation to the extent possible should adequately restore the claimants to the position prior to the accident. The stand of the Insurance Company was, therefore, negated and award based upon assessment of income as per the rates of the Deputy Commissioner was upheld. The findings of the Coordinate Bench are as under:-

> ***"10. In the case of Shri. Ram General Insurance Company Limited's case (supra), a detailed discussion has been made on the applicability of the minimum wages prescribed as per the Minimum Wages Act, 1948 as well as the case law applicable thereto. In para 15 it has been held as under:***

"15. It has been held in a plethora of judgements by the Hon'ble Supreme Court that it is the duty of the tribunal/Court to award just compensation. Motor Vehicles Act is admittedly a beneficial legislation, therefore to circumscribe the scope of assessment of income of the deceased/injured to the minimum wages as may be notified under the Minimum Wages Act would not be justified. Needless to say, assessment of income in cases where no specific documentary evidence is led in support of the claim, such assessment would be dependent upon the facts and circumstances of each case. There may be instances where oral evidence alongwith other supporting evidence on record may inspire confidence. There has to be a sound evaluation of the oral evidence and supporting circumstances in the factual matrix of each particular case. The Tribunal/Court while keeping in view the minimum wage fixed under the Minimum Wages Act as the basic criterion at the outset would proceed to determine whether income of the deceased/injured is to be assessed at any higher level keeping in view the evidence on record. This in my considered view, would be the correct approach to follow in such cases."

11. Hon'ble Supreme Court in the case of Jakir Hussein V. Sabir & Ors., 2015(7) SCC 252, has held as under:-

14. We have carefully examined the facts of the case and material evidence on record in the light of the rival legal contentions urged before us by both the learned counsel on behalf of the parties to find out as to whether the appellant is entitled for further enhancement of compensation? We have perused the impugned judgment and order of the High Court and the award of the Tribunal. After careful examination of the facts and legal evidence on record, it is not in dispute that the appellant was working as a driver at the time of the accident and no doubt, he could be earning 4,500/- per month. As per the notification issued by the State Government of

Madhya Pradesh under section 3 of the Minimum Wages Act, 1948, a person employed as a driver earns 128/- per day, however the wage rate as per the minimum wage notification is only a yardstick and not an absolute factor to be taken to determine the compensation under the future loss of income. Minimum wage, as per State Government Notification alone may at times fail to meet the requirements that are needed to maintain the basic quality of life since it is not inclusive of factors of cost of living index. Therefore, we are of the view that it would be just and reasonable to consider the appellant's daily wage at Rs. 150/- per day (Rs. 4,500/- per month i.e. Rs. 54,000/- per annum) as he was a driver of the motor vehicle which is a skilled job. Further, the Tribunal has wrongly determined the loss of income during the course of his treatment at Rs. 51,000/- for a period of one year and five months. We have to enhance the same to Rs. 76,500/- (Rs. 4,500 X17 months). "

12. In the case of "Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance Company Limited* [2011(13) SCC 236] Hon'ble Supreme Court has held as under:

"14. In the instant case, it is not in dispute that the appellant was aged about 35 years and was working as a Coolie and was earning Rs. 4500/-per month at the time of accident. This claim is reduced by the Tribunal to a sum of Rs. 3000/- only on the assumption that wages of the labourer during the relevant period viz. in the year 2004, was Rs. 100/- per day. This assumption in our view has no basis. Before the Tribunal, though Insurance Company was served, it did not choose to appear before the Court nor did it repudiated the claim of the claimant. Therefore, there was no reason for the Tribunal to have reduced the claim of the claimant and determined the monthly earning a sum of Rs. 3000/- per month. Secondly, the appellant was working as a Coolie and therefore, we cannot expect him to produce any documentary

evidence to substantiate his claim. In the absence of any other evidence contrary to the claim made by the claimant, in our view, in the facts of the present case, the Tribunal should have accepted the claim of the claimant. We hasten to add that in all cases and in all circumstances, the Tribunal need not accept the claim of the claimant in the absence of supporting material. It depends on the facts of each case. In a given case, if the claim made is so exorbitant or if the claim made is contrary to ground realities, the Tribunal may not accept the claim and may proceed to determine the possible income by resorting to some guess work, which may include the ground realities prevailing at the relevant point of time. In the present case, appellant was working as a Coolie and in and around the date of the accident, the wage of the labourer was between Rs. 100/- to 150/- per day or Rs. 4500/- per month. In our view, the claim was honest and bonafide and, therefore, there was no reason for the Tribunal to have reduced the monthly earning of the appellant from Rs. 4500/- to Rs. 3000/- per month. We, therefore, accept his statement that his monthly earning was Rs. 4500/. "

13. Learned counsel for the appellant-insurance company has vehemently contended that the income has to be assessed, in the absence of the evidence, on the basis of the rates prescribed under the Minimum Wages Act, 1948. However, learned counsel for the appellant-insurance company has not been able to show any law in this respect which makes it mandatory for the Tribunal to assess the income as per the rates prescribed under the Minimum Wages Act, 1948.

14. The wife of the deceased namely, Meena Devi, respondent No.1 herein, stepped into the witness box as PW1 and she in her examination-in-chief has stated that her husband was a Mason and was earning an amount of Rs. 20,000/- per month. Since there was no other evidence besides her oral testimony, the income of the deceased was assessed as Rs. 14,610/- per

month on the basis of the rates as prescribed by the Deputy Commissioner, Kamal.

15. It is trite that the minimum wage notification is merely a yardstick and not an absolute factor to be taken to determine the compensation payable to the claimants. It has been laid down in a plethora of judgments by Hon'ble the Supreme Court that the Courts must strike a balance between inflated and unreasonable demands of the victim and the equally untenable claim of the opposite party saying that nothing is payable. However, at the same time, the award must be just, which would necessarily intake that the compensation to the extent possible should adequately restore the claimants to the position prior to the accident. In the present case, the deceased was a 27years' old man and the claimants are his widow, mother and minor children. The minor children are aged 5 and 6 years (respondent Nos.2 and 3, respectively). The minor children have their whole life ahead, their formal education, if started at all, would be at the very initial stage. The compensation cannot in any manner compensate for the loss suffered by the family of the deceased but it should atleast be sufficient to mitigate the financial difficulties the family is likely to face."

15. It would be relevant to mention here that this judgment in the case of National Insurance Company Ltd. v. Meena Devi and others was upheld by the Hon'ble Apex Court and the Special Leave to Appeal bearing SLP No.12963 of 2022 titled as National Insurance Company Ltd. v. Meena Devi and others was dismissed by the Hon'ble Apex Court on 04.08.2022. A similar view was taken by a Coordinate Bench of this Court very recently vide judgment dated 24.03.2023 passed in FAO No.1443 of 2023 tided as National Insurance Company Ltd. v. Sachin and others. Another Coordinate Bench also was of a similar view in judgment dated 26.08.2022 passed in

FAO-3583 of 2022 tided as United India Insurance Company Limited v. Rajbir Singh and others and other connected cases. It was held that the Tribunal would be required to analyze the evidence in the peculiar facts of the case and decide the income. This Court is in agreement with the view taken in the aforesaid judgments and, in these circumstances, the judgments relied upon by learned counsel for the appellant would not come to the aid of the appellant."

16. Reverting to the facts of the present case, both deceased were young persons, Rustom being 24 years old at the time of his death and having been survived by his young widow, two minor children and parents. Similarly, Yash Kanojia was a young lad of 21 years of age, who lost his life in the prime of his youth at the hands of a person who was carelessly and rashly driving the offending vehicle.

17. In the considered opinion of this Court, assessing of monthly income at the rate of Rs.15,954/- as per the prescribed rates by the Deputy Commissioner, Karnal is not on the excessive side keeping in view the fact that the accident took place in the end of the Year 2021 and both deceased, as already noticed were young persons in the prime of their youth. It is to be borne in mind that the widow, minor children and parents have their whole life ahead of them. Hon'ble the Supreme Court of India held in the case of ***Chandra @ Chanda @ Chandra Ram and another Vs. Mukesh Kumar Yadav and others, 2021 (4) RCR (Civil) 492***, that a certain amount of guess work has to be done in motor accident claim cases while assessing the income when there is no definite proof regarding the same. Relying upon the said ratio and the judgments referred to in the preceding paragraph, this

Court does not find any illegality in the award passed by the MACT warranting interference.

That being so, I do not find any merit in the present appeals and the same are accordingly dismissed.

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

(VIKRAM AGGARWAL)
JUDGE

July 03, 2025
Rekha

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