

**FAO-6665-2016 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****(116)****FAO-6665-2016 (O&M)
Date of decision:- 20.03.2025****New India Assurance Company Limited****... Appellant****Versus****Reenu and others****... Respondents****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Deepak Goyat, Advocate for
Mr. Ashwani Talwar, Advocate
for the appellant-insurance company.

Mr. Aman Pal, Advocate
for respondents No.1 to 4.

Service of respondent No.5 was ordered to be dispensed with by this
Court vide order dated 18.04.2017.

**********SUVIR SEHGAL, J. (ORAL)**

1. This appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 (for brevity, "MV Act") by the insurance company, assailing award dated 20.07.2016, whereby a petition, preferred by claimants/respondents No.1 to 4, for grant of compensation on account of death of Vijesh Kumar, has been partly accepted.

2. Facts, in brief, leading to the filing of the appeal are that on 01.09.2015, Vijesh Kumar, along with three others, were travelling in a car, which was driven by Vikram. Another car bearing registration no. HR-05AH-0042, which was being carelessly driven by Kuldeep Singh-respondent No.1, came from the

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opposite side at a high speed and collided with their car. Vijesh Kumar sustained multiple injuries while other occupants received minor injuries. He was taken to the hospital, where he was declared dead. An FIR No.249 dated 02.09.2015 was lodged under Sections 279 and 304-A, IPC at Police Station City Ladwa, District Kurukshetra. Claimants filed a petition under MV Act for grant of compensation on account of death of Vijesh Kumar, which has been partly accepted vide impugned award dated 20.07.2016 and they have been granted compensation of Rs.29,03,600/-. The owner-cum-driver as well as the insurance company have been held liable to pay the compensation, alongwith interest at the rate of 9% per annum, from the date of filing of the claim petition.

3. Counsel for the appellant asserts that Tribunal has erred in assessing the income of the deceased as Rs.10,200/- per month on the basis of a notification dated 20.02.2015 issued by the Deputy Commissioner, Kurukshetra, which prescribes daily wages of unskilled labour on contract basis. By placing reliance upon the judgment of a Co-ordinate Bench of this Court in **New India Assurance Co. Ltd Verus Smt. Surti Devi and another** (FAO-3239-2016, decided on 29.05.2018), counsel for the appellant has urged that as DC rates are meant for payment of wages out of contingency, the same cannot be a guiding factor for assessment of compensation in cases of motor vehicular accidents.

4. On the other hand, counsel for the respondents No.1 to 4-claimants submit that Tribunal has correctly assessed the income of the deceased and placed reliance upon the judgments of the Supreme Court in **Chandra @**



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Chanda @ Chandraram & Anr. Verus Mukesh Kumar Yadav & Ors, (2022)

1 SCC 198 and Manusha Sreekumar and others Versus The United India Insurance Co. Ltd., 2022 SCC Online SC 1441.

5. I have heard counsel for the parties and have considered their respective submissions.

6. On the basis of the evidence adduced, Tribunal has come to the conclusion that the accident took place on account of rash and negligent driving of Kuldeep Singh, which resulted in the death of Vijesh Kumar. Tribunal found that the driver of the offending vehicle was holding a valid driving license, Ex.R2, and the vehicle was insured under insurance policy, Ex.R3.

7. In her evidence, Reenu (PW1), widow, deposed that her husband was doing agricultural work and also running a photo studio at Ladwa, from where he used to earn Rs.40,000/- per month. However, she was not able to produce any documentary evidence to support her testimony. Assuming the deceased to be an unskilled labourer, Tribunal presumed his monthly income to be Rs.10,200/- as per the notification issued by the Deputy Commissioner, Kurukshetra, which pertains to daily wages. In **Chandra @ Chanda @ Chandraram's case (supra)**, Supreme Court held that in the absence of documentary evidence, some amount of guesswork is required to be done and minimum wage notification can be a yardstick, though not an absolute one, to fix the income of the deceased. Following the Supreme Court, a Co-ordinate Bench of this Court in **The New India Assurance Company Limited Versus Pinki and others, 2024 (2) RCR (Civil) 815**, observed as under:-



“12. No doubt minimum wages notification is a yardstick which is often used, however, the same cannot be the only factor to determine the compensation payable to the claimants. 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 so as to ensure that the claimants are adequately restored to the position prior to the accident. The young widow of the deceased is 23 years of age and the minor children have their whole life ahead of them, their formal education, if started at all, would be at the very initial stage. The compensation cannot in any manner compensate them for the loss suffered by them because of the untimely death of the deceased, however, the amount should be adequate to mitigate the financial difficulties the family is likely to face.

13. Keeping in view of the peculiar circumstances, especially the fact that the widow is herself 23 years old and the children are at a very tender age with their whole life ahead of them, as also that there is no mandate of law to only apply the rates as prescribed under the Minimum Wages Act, 1948 and at best it can be only used as a yardstick, this Court does not deem it appropriate to interfere in the award passed by the Tribunal. The present appeal being devoid of any merit is accordingly dismissed. Pending miscellaneous applications, if any, also stand disposed off.”

8. The observations of the Co-ordinate Bench are squarely applicable. Widow is 25 years of age and has a 3 year old child to look after. This Court, therefore, does not find any infirmity in the reliance upon the daily wages notification circulated by the local administration.

9. For the reasons recorded above, this Court does not find any merit in the appeal, which is dismissed with no order as to costs.

10. As the appeal has been decided, pending application(s), if any, is/are disposed off.

20.03.2025

Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No