IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

239 **FAO-1410-2018 (O&M)**
Date of decision :21.08.2025

NEW INDIA ASSURANCE COMPANY LIMITED ... APPELLANT

VERSUS

RAM PHAL AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Lalit Garg, Advocate and
Ms. Geetika Rani, Advocate
for the appellant.

Mr. Wazir Singh, Advocate
for respondent No .1.

Mr. Parshant Sethi, Advocate
for respondent No. 2.

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PARMOD GOYAL, J. (ORAL)

Insurance Company has challenged impugned award dated 04.12.2017 passed by learned Motor Accident Claims Tribunal, Karnal, vide which claim petition titled as Ram Phal Vs. Gudeep Singh and others was allowed and sole claimant was found entitled to compensation of Rs. 9,00,000/- on account of loss suffered due to death of Smt. Dharmo Devi.

2. Learned counsel for the Insurance Company has challenged award only on two grounds (1) that compensation calculated by learned Tribunal is not in accordance with law and that driver of vehicle i.e. respondent No. 1 was not holding any endorsement as to hazardous vehicle since offending truck was an oil tanker.

3. Learned counsel for the respondent-claimant has argued that compensation awarded to claimant is in accordance with law as minimum wages of unskilled worker is taken at DC rates and age of deceased has been taken as

per postmortem report.

4. On consideration, I find that no interference is required in application of DC rates by learned Tribunal. Generally, it is minimum wages, which are made applicable to a person who is unskilled worker, however, in a case of homemaker, once amount has been applied by learned Tribunal, I do not intent to interfere with the same. However, it shall not be taken as a precedent. It is being allowed only in view of beneficial nature of Motor Vehicles Act, as amount of Rs. 6,00,000/- has already been paid to the claimant. It must not be forgotten that loss of human life cannot be determined in absolute terms. However, I find merit in the contentions raised on behalf of learned counsel for the Insurance Company that learned Tribunal has wrongly applied multiplier of 7 by taking deceased to be 62 years on the basis of postmortem report.

5. Admittedly, as per death certificate Ex. R-6 pertaining to Smt. Dharmo Devi deceased was 66 years old at the time of her death. Her death certificate has been made on the assertions made by family members of Dharmo Devi and, therefore, this document cannot be abandoned by petitioner and it has gone unrebutted. Accordingly, age of deceased has to be taken as 66 years and, therefore, multiplier of 5 instead of 7 shall be applicable. On application of multiplier of 5, the total compensation on account of loss of dependency would come to Rs.10,520x5x12= Rs.6,31,200/-. The petitioner is also entitled to funeral expenses as well as loss of estate. Accordingly, he is granted Rs. 15,000/- under each head. Petitioner was son of deceased; therefore, he is entitled to consortium of Rs. 40,000/-. Total compensation for which petitioner is entitled to is determined as Rs. 7,01,200/-.

6. Learned counsel for the Insurance Company has also challenged liability of Insurance Company on the ground of that respondent No. 2 was not holding valid driving license to drive hazardous vehicle as the truck which caused

the accident was an oil tanker. However, I do not find any merit in the contention raised on behalf of respondent No. 3 as in registration certificate which is on record as Ex.R-1, the vehicle is not mentioned as Hazardous Vehicle. Therefore, unless it is so declared by Registering Authority or any other authority, it cannot be held hazardous vehicle. Merely because it was an oil tanker and it cannot be concluded that driver of vehicle was not having valid driving license. It is pertinent to note while accepting insurance premium of oil tanker insurance company had not made any condition to treat it as hazardous vehicle. No ground to interfere with findings of Tribunal on this issue is made out, the driving license of respondent No. 1, admittedly, was valid for driving goods vehicle, which as per Ex. R-1 is true description of offending vehicle. The contention raised on behalf of Insurance Company is liable to be rejected.

7. In view of above discussion, the impugned award dated 04.12.2017 is modified to the extent that appellant shall be entitled to total compensation of Rs. 7,01,200/- instead of Rs. 9,00,000/- as awarded by learned Tribunal. However, I find that interest @ 7% is on lower side, therefore, let interest @ 7.5% from the date of filing of claim petition till realization be paid. The amount which stands already paid by Insurance Company to claimant shall be adjusted.

8. Appeal is allowed in above terms.

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

21.08.2025 **(PARMOD GOYAL)**
manoj **JUDGE**

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