IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-643-2018(O&M)
Date of decision: 17.07.2025

IFFCO TOKIO General Insurance Co. Ltd.

...Appellant(s)

Vs.

Pappu & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sanjeev Kodan, Advocate
for the appellant.

Mr. Ram Karan Agnihotri, Advocate
for respondents No.1 and 2.

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NIDHI GUPTA, J.

Present appeal has been filed by the Insurance Company against Award dated 07.10.2017 passed by Motor Accident Claims Tribunal, Karnal (hereinafter "the learned Tribunal") in MACT Case No.38 dated 16.08.2016 filed under Section 166 read with Section 140 of the Motor Vehicles Act, whereby compensation of Rs.18,29,000/- has been awarded to the claimants/respondents No.1 and 2 herein. The 2 claimants are the parents of the deceased who was stated to be 19 years old at the time of death.

2. Brief facts of the case are that learned Tribunal on the basis of pleadings and oral & documentary evidence adduced before it concluded that the deceased had died due to the injuries suffered by him in a motor

vehicular accident that took place on 29.03.2016 due to the rash and negligent driving of bus bearing registration No.DL-1VA-9071 (hereinafter referred to as "the offending vehicle") by respondent No.3. The offending vehicle was owned by respondent No.4 and insured by the appellant.

3. Learned counsel for the appellant-Insurance Company submits that the compensation awarded to the claimants deserves to be reviewed as income of the deceased has been taken on the higher side as Rs.10,520/- as per the DC rates; whereas income ought to have been assessed as Rs.8,070/- per month on the basis of the relevant Minimum Wages payable at the relevant time. It is also submitted that future prospects have been added @ 50% whereas as per law, future prospects have to be added @ 40%. It was further submitted that even under the conventional heads, an exorbitant amount of Rs.1 lakh has been awarded towards love and affection to the mother and a sum of Rs.25,000/- has been given towards funeral expenses which are not in accordance with law. Learned counsel accordingly prays for modification of the impugned Award.

4. Learned counsel for respondents No.1 and 2/claimants vehemently opposes the submissions made on behalf of the appellant and submits that the impugned Award suffers from no error and prays for dismissal of the present appeal.

5. No other argument is made on behalf of the parties.

6. I have heard learned counsel and perused the case file in detail. I find some merit in the submissions made on behalf of the appellant.

7. It was the pleaded case of the claimants before the learned Tribunal that the deceased was 19 years old at the time of accident and was running a piggery farm from which he was earning Rs.20,000/- per month. However, as the claimants were unable to produce any proof of income, the learned Tribunal had assessed notional income of the deceased as Rs.10,520/- per month on the basis of DC rates. No doubt, income is usually assessed on the basis of Minimum Wage Notification prevalent on the date of accident. However, special wages as per DC rates are often times granted; and the same cannot be stated to be against the law. The income provided in Minimum Wages Act can form the basic criteria or guideline in assessing the income of the deceased or injured. But facts of each case have to be individually evaluated and considered. An assessment is made by the Tribunal on the basis of DC rate cannot be said to be against the law; especially in view of the fact that the Motor Vehicles Act is a beneficial legislation. As such, I find no error in the income as assessed by the Tribunal.

8. Age of the deceased was determined to be 19 years on the basis of his Post-Mortem Report (Ex.P2). It is the contention of the appellant that learned Tribunal has erred in adding 50% towards future prospects. I find merit in the said argument as, as per judgment of Hon'ble Supreme Court in "**Sarla Verma Vs. Delhi Transport Corporation" Law Finder Doc ID # 188882,**

given the fact that deceased was 19 years of age, addition towards future prospects could have been made only @ 40%. Admittedly, the deceased was a bachelor. Therefore, deduction of 50% was correctly made; and keeping in mind the age of deceased, multiplier of 18 was also correctly applied. Under the conventional heads, learned Tribunal has awarded Rs.1 lakh to the claimant No.2 towards loss of love and affection; and Rs.25,000/- towards funeral expenses. The said amounts are also modified as per law. The compensation is accordingly re-calculated as follows: -

Head	**Before the Tribunal**	**Revised compensation**
Income	Monthly : Rs.10,520/- Annual : Rs.1,26,240/-	Monthly : Rs.10,520/- Annual : Rs.1,26,240/-
Deduction	50%	50%
Future prospects	50%	40%
Multiplier	18	18
Loss of estate	-	Rs.18,000/-
Funeral expenses	Rs.25,000/-	Rs.18,000/-
Loss of love and affection to mother	Rs.1 lakh	Rs.48,400/- to each claimant i.e. total Rs.96,800/-
Total	**Rs.18,29,240/-**	**Rs.17,23,424/-**
Interest	7% per annum	7% per annum

9. Present appeal is accordingly **partly allowed** in above terms.

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

17.07.2025 **(Nidhi Gupta)**
Sunena **Judge**

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