IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 12.09.2025

FAO-6986-2018(O&M)

United India Insurance Company Limited

...Appellant(s)

Vs.

Neelam & Others

...Respondent(s)

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FAO-7124-2018(O&M)

Neelam & Others

...Appellant(s)

Vs.

Gaje Singh & Others

...Respondent(s)

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CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Davinder Kumar, Advocate for
Mr. Parveen Sharma, Advocate
for the appellants/claimants
in FAO-7124-2018.

Mr. H.N. Sahu, Advocate
for the respondents No.5 and 6/driver and owner
in FAO-7124-2018.

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NIDHI GUPTA, J.

FAO-6986-2018

Present appeal has been filed by the Insurance Company seeking setting aside of the Award dated 05.07.2018 passed by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the learned Tribunal') whereby MACT Case No.111 dated 20.02.2017 filed Sections 166 and 140 of the Motor Vehicles Act (hereinafter referred to as "the Act") by the claimants/respondents No.1 to 4 herein, has been allowed and compensation of Rs.21,91,000/- has been awarded to them.

FAO-7124-2018

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.21,91,000/- awarded by Tribunal vide Award dated 05.07.2018 passed in MACT Case No.111 dated 20.02.2017 filed Sections 166 and 140 of the Act. The 4 claimants are the 33-year-old widow, 65-year-old father, and 2 minor children of deceased Rajbir.

Both the above said, cross-appeals are being disposed of by this common order as both appeals arise out of the same Award dated 05.07.2018; accident dated 04.01.2017; and parties, facts and offending vehicle in both cases, are same. For the sake of brevity, the parties are being referred to and the facts are being drawn from FAO-6986-2018 titled as "United India Insurance Company Limited Vs. Neelam & Others".

2. Learned Tribunal upon appraisal of pleadings and oral & documentary evidence adduced by the parties concluded that the deceased Rajbir had died due to the injuries suffered by him in a motor vehicular accident that took place on 04.01.2017 at about 6:45-7 pm due to the rash and negligent driving of New Holland Tractor bearing registration No.HR-12S-0867 (referred to herein as "the offending vehicle") by respondent No.5. The offending vehicle was owned by respondent No.6 and insured by the appellant.

3. Learned counsel for the appellant/Insurance Company submits that challenge to the Award dated 05.07.2018 is on quantum. It is submitted that income of the deceased has been taken on the higher side as Rs.10,520/- on the basis of DC rates; whereas the same should be as per Minimum Wages payable at the time. It is submitted that DC rates are admissible only to persons who work in Government Department and are paid from the Contingency Funds. It is submitted that in the present case, it is not the case of the claimants that deceased was working in any Government Department; rather it was their pleaded case that deceased was working as a Helper with Fork Lift Machine of M/s Pannu Enterprises. As such, income of the deceased ought to have been assessed on the basis of the relevant Minimum Wage Notification and not as per the DC rates.

4. It is further submitted that the learned Tribunal has taken age of the deceased as 32 years on the basis of his Post-Mortem Report. It is contended that in actual fact, the deceased was between 36-40 years as, in the Driving Licence of the deceased, his date of birth is mentioned as 15.08.1979; whereas date of accident is 04.01.2017; and therefore, he would fall within the age bracket of 36-40 years. It is submitted that accordingly, multiplier of 16 has been wrongly applied by the learned Tribunal; and multiplier of 15 is applicable.

5. Learned counsel for Insurance Company further submits that father of the deceased has been taken as dependent; whereas he could not

have been taken as dependent; and therefore, deduction of 1/3rd ought to have been made towards personal expenses instead of 1/4th.

6. Per contra, learned counsel controverts the submissions made on behalf of the Insurance Company and submits that compensation payable to the claimants deserves to be enhanced. The deceased was working as Helper with Forklift Machine with M/s Pannu Enterprises and was earning Rs.20,000/- per month; including income from dairy farming and agriculture work. Therefore, in actual fact, income of the deceased has been assessed on the lower side and the same deserves to be enhanced. It is submitted that even amounts awarded under the conventional heads are on the lower side and deserve to be enhanced. Moreover, nothing has been awarded towards future prospects. It is accordingly prayed that the compensation paid to the claimants be enhanced.

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

8. I have heard learned counsel and perused the case file in detail. I find some merit in the arguments advanced on behalf of both the parties.

9. It was the pleaded case of the claimants that deceased was working as Helper with Fork Lift Machine with M/s Pannu Enterprises and his wages were Rs.326/- per day, which was proved from Certificate (Ex.P1) i.e. Rs.9,780/- per month. In this circumstance, I find no error in the income of Rs.10,520/- per month as assessed by the learned Tribunal. The objection of learned counsel for the Insurance Company that DC rates are not

applicable, is misguided. 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. The facts of each case have to be individually evaluated and considered. An assessment made by the learned Tribunal on the basis of DC rates cannot be said to be against the law; especially in view of the fact that the Act is a beneficial legislation. As such, I find no error in the income as assessed by the learned Tribunal.

10. Further, as regards age of the deceased, learned Tribunal has determined age of the deceased to be 32 years on the basis of his Post-Mortem Report (Ex.P5). Admittedly, postmortem report oftentimes only records an estimation of age of the deceased. Learned counsel for the claimants has been unable to controvert the contention of learned counsel for the Insurance Company that as per the Driving Licence of the deceased (Annexure A1) his date of birth is mentioned as 15.08.1979. Therefore, the deceased would be between the age of 36 to 40 years at the time of accident. Accordingly, future prospects have been correctly added @ 40%. However, multiplier of 16 cannot be applied and the same ought to be 15.

11. As regards contention of learned counsel for the Insurance Company that father of the deceased has been wrongly taken to be

dependent on the deceased, I find no merit in the same as, at the time of accident, father of the deceased is shown to be 65 years old in the Claim Petition. Thus, being 65 years old i.e. beyond the age of retirement, he would be taken to be dependent of the deceased. It is not the case of the Insurance Company that father of the deceased was pursuing some other employment or had some other source of income. Therefore, deduction of 1/4th has been correctly made.

12. Even under the conventional heads, the learned Tribunal has only awarded a sum of Rs.40,000/- to claimant No.1 towards consortium; Rs.15,000/- for loss of estate and Rs.15,000/- towards funeral expenses. The same also deserves to be enhanced. Accordingly, the compensation payable to the claimants is re-assessed in the following manner:-

Head	**Awarded by learned Tribunal**	**Re-assessed compensation**
Income	Rs.10,520/- per month	Rs.10,520/- per month
Annual income	Rs.1,26,240/-	Rs.1,26,240/-
Addition of 40%	Rs.1,76,736/- (Rs.1,26,240/- + Rs.50,496/-)	Rs.1,76,736/- (Rs.1,26,240/- + Rs.50,496/-)
Deduction of 1/4th	Rs.1,32,552/- (Rs.1,76,736/- - Rs.44,184/-)	Rs.1,32,552/- (Rs.1,76,736/- - Rs.44,184/-)
Multiplier	(16) Rs.1,32,552/- x 16 = Rs.21,20,832/-	(15) Rs.1,32,552/- x 15 = Rs.19,88,280/-
Consortium	Rs.40,000/- (to widow only)	Rs.1,76,000/- (Rs.44,000/- to each claimant)
Loss of estate	Rs.15,000/-	Rs.18,500/-
Funeral expenses	Rs.15,000/-	Rs.18,500/-

Total	**Rs.21,90,832/- rounded off to Rs.21,91,000/-**	**Rs.22,01,280/-**
Interest	7%	7%

13. In view of the above, both the present appeals stand **partly allowed** in above terms.

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

12.09.2025 **(Nidhi Gupta)**
Sunena **Judge**

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