IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 20.01.2026
FAO-5389-2019(O&M)

United India Insurance Company Limited

...Appellant(s)

Vs.

Sudesh & Others

...Respondent(s)

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CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sahej Mahajan, Advocate
for the appellant.

Mr. Yashdeep Nain, Advocate
for respondents/claimants (through VC).

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NIDHI GUPTA, J.

Present appeal has been filed by Insurance Company laying challenge to the Award dated 06.04.2019 passed by Motor Accident Claims Tribunal, Hisar (hereinafter 'the learned Tribunal') whereby compensation of Rs.29,62,515/- has been awarded to the claimants/respondents No.1 to 5 herein. The 5 claimants are the 38-year-old widow, 18-year-old son, 16-year-old son, 70-year-old mother and 77-year-old father of deceased Devender, who was 40 years old at the time of accident.

2. Learned counsel for the claimants submits that Cross-Objections have been filed by the claimants seeking enhancement of compensation of Rs.29,62,515/- awarded by the learned Tribunal vide Award dated 06.04.2019 passed in MACT Case No.90 dated 13.07.2018

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filed under Section 166 of the Motor Vehicles Act. For the sake of facility, the parties are being referred to as per their status in the appeal.

3. Brief facts of the case are that the ld. Tribunal on the basis of pleadings and evidence adduced by the parties, concluded that deceased Devender had died due to the injuries suffered by him in a motor vehicular accident that took place on 09.04.2018 due to the rash and negligent driving of truck bearing registration No.HR-39D-9881 (hereinafter "the offending vehicle") being driven by respondent No.6, owned by respondent No.7 and insured by the appellant. The said compensation has been awarded along with interest @ 9% per annum. Respondents were held jointly and severally liable for payment of compensation amount.

4. Learned counsel for the appellant/Insurance Company assails the impugned Award by submitting that income of the deceased has been assessed on the higher side as RS.14,711/- per month on the basis of DC rates. It is submitted that it was the pleaded case of the claimants before the learned Tribunal that deceased was working as a Supervisor and was also an agriculturist and was earning Rs.34,000/- per month. However, as the claimants were unable to prove the alleged avocation and income of the deceased, learned Tribunal has taken income of the deceased as Rs.14,711/- per month. However, the said income was assessed on the basis of DC rates, which is not permissible as per law. It is contended that the learned Tribunal ought to have assessed income of the deceased as per the

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Minimum Wage Notification. It is submitted that as per the relevant Notification in the year 2018, even a skilled worker was admissible to minimum wage of only Rs.9,900/- per month; whereas learned Tribunal has assessed income as Rs.14,711/- per month. It is submitted that therefore, income of the deceased ought to be decreased and Award be modified. It is further submitted that the learned Tribunal has awarded an exorbitant amount of Rs.4,80,000/- under the conventional heads. It is submitted that the said amount also deserves to be modified as per law.

5. Per contra, learned counsel for the claimants/cross-objectors vehemently opposes the submissions on behalf of the appellant/Insurance Company and submits that in fact, compensation deserves to be enhanced as claimants are entitled to increase of 10% every three years, on the amounts awarded under the conventional heads. It is submitted that the amount of Rs.2,50,000/- awarded to the claimants towards loss of love and affection is liable to be adjusted towards 10% increase to be granted to the claimants in terms of law laid down by the Hon'ble Supreme Court.

6. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the claimants. However, there is some merit in the submissions of ld. counsel for the Insurance Company.

7. It was the pleaded case of the claimants before the learned Tribunal that deceased was an agriculturist and was also working as a

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Supervisor in M/s Veer Enterprises, Hisar and earning Rs.34,000/- per month. Except for the self-serving statement of the claimant No.1, no documentary evidence was produced by the claimants to prove the alleged employment or income of the deceased. Although the learned Tribunal had noted that original Salary Slip had not been brought on record, yet the learned Tribunal had observed that deceased was working as a temporary employee and earning Rs.16,000/- per month. Accordingly, the learned Tribunal had taken the deceased to be a skilled person; and had determined notional income of the deceased as RS.14,711/- per month on the basis of DC rates for the year 2018-19. This wage has been assailed by the Insurance Company. It is however to be noted that no evidence in rebuttal was produced by the appellant before the learned Tribunal. In any event, I find no error in the income as assessed by the learned Tribunal. The objection of learned counsel for the appellant/Insurance Company that DC rates are not applicable, is misguided. No doubt, the 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;

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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.

8. Further, age of the deceased was determined to be 40 years on the basis of his Post-Mortem Report (Ex.P6). Accordingly, the Tribunal had correctly made an addition of 25% towards future prospects; and correctly applied multiplier of 15. As claimants were five in number, the Tribunal had correctly made deduction of 1/4th towards personal expenses. However, under the conventional heads, the Tribunal has awarded an amount of Rs.15,000/- towards funeral expenses; Rs.2 lakh i.e. Rs.40,000/- to each of the claimants towards loss of consortium; Rs.15,000/- towards loss of estate; and additional amount of Rs.2,50,000/- towards loss of love and affection. It is established position in law that as per the prevalent law, learned Tribunal could not have awarded the additional sum of Rs.2,50,000/- towards loss of love and affection. As such, the said amount is liable to be deducted from the compensation awarded to the claimants.

9. Contention of the ld. counsel for the claimants that they are entitled to 10% increase in amounts under the conventional heads, is rejected in view of judgment of Hon'ble Supreme Court in **Hasina Yasmin v. National Insurance Co. Ltd., (SC) ; law Finder Doc ID # 2826989;** wherein while referring the matter to Larger Bench, it has been directed that only a sum of Rs.40,000/- is to be awarded as consortium and Rs.15,000/- each towards funeral expenses and loss of estate - without 10% increase.

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10. Although, learned counsel for the claimants had stated that Cross-Objections have been filed. However, upon enquiry by Registry, it is found that objections were raised upon Cross-Objections on 30.08.2022, which were never cleared till date. In any event, in view of the discussion above, the claimants are not entitled for any compensation; and FAO-5389-2019 filed by the Insurance Company is **partly allowed;** and compensation payable to the claimants is re-assessed in the following manner:-

Head	**Awarded by learned Tribunal**	**Re-assessed compensation**
Income	Rs.14,711/- per month	Rs.14,711/- per month
Future prospects (25%)	Rs.14,711/- + Rs.3,678/- = Rs.18,389/-	Rs.14,711/- + Rs.3,678/- = Rs.18,389/-
Annual income	Rs.18,389/- x 12 = Rs.2,20,668/-	Rs.18,389/- x 12 = Rs.2,20,668/-
Deduction of 1/4th	Rs.2,20,668/- - Rs.55,167/- = Rs.1,65,501/-	Rs.2,20,668/- - Rs.55,167/- = Rs.1,65,501/-
Multiplier of 15	Rs.1,65,501/- x 15 = Rs.24,82,515/-	Rs.1,65,501/- x 15 = Rs.24,82,515/-
Funeral expenses	Rs.15,000/-	Rs.15,000/-
Loss of consortium (Rs.40,000/- each)	Rs.2,00,000/-	Rs.2,00,000/-
Loss of estate	Rs.15,000/-	Rs.15,000/-
Loss of love and affection	Rs.2,50,000/-	Nil
Total	**29,62,515/-**	**Rs.27,12,515/-**

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

20.01.2026 **(Nidhi Gupta)**
Sunena **Judge**

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

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