

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****229****FAO-5138-2017(O&M)****Date of decision: 27.01.2026****United India Insurance Company Limited****...Appellant(s)****Vs.****Smt. Rajwanti & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Nitin Gupta, Advocate
for the appellant.

Mr. Saurav Bajaj, Advocate
for the respondents No.1 and 2 (through VC).

Ms. Riya Malik, Advocate
for respondents No.3 and 4.

*********NIDHI GUPTA, J.**

Present appeal has been filed by the Insurance Company against the Award dated 10.04.2017 passed by Motor Accident Claims Tribunal, Sonipat (hereinafter 'the learned Tribunal') whereby Claim Petition No.158 dated 07.04.2016 filed by the claimants/respondents No.1 and 2 herein, has been allowed and claimants have been awarded compensation of Rs.12,49,000/-. The two claimants are the widowed mother and major brother of deceased Surender. Widow of the deceased



namely Reena was made pro-forma respondent No.4 before the learned Tribunal; and is pro-forma respondent No.5 before this Court.

2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that deceased Surender had died due to the injuries suffered by him in a motor vehicular accident that took place on 28.12.2013 due to the rash and negligent driving of Canter bearing registration No.DL-1-LT-1177 (hereinafter “the offending vehicle”) being driven by respondent No.3, owned by respondent No.4, and insured by the appellant. The said compensation has been awarded along with interest @ 9% per annum. Respondents No.3 and 4 and the appellant were held jointly and severally liable for payment of compensation amount.

3. Learned counsel for the appellant submits that challenge to the impugned Award is only on the basis of quantum of compensation awarded to the claimants. It is submitted that the learned Tribunal has assessed income of the deceased as Rs.6,000/- per month. It is submitted that as per the relevant Minimum Wage Notification dated 01.07.2013, minimum wage admissible to an unskilled worker was Rs.5341.51/- rounded off to Rs.5350/- per month. Thus, income of the deceased ought to have been assessed as only Rs.5350/- per month. It is further submitted that the learned Tribunal has made an addition of 50% towards future prospects; whereas it was the own pleaded case of the claimants that the



deceased was a labourer. Therefore, future prospects were liable to be added @ 40%. It is further submitted that deduction of 1/3rd has been made; whereas the same should have been 50%. Learned counsel contends that by way of the impugned Award, the learned Tribunal has awarded the entire amount of compensation to the claimants and has awarded nothing to pro-forma respondent No.5 herein/widow of the deceased. It is submitted that therefore, a deduction of 50% ought to have been made towards personal expenses. Even the amounts granted under the conventional heads are also on the higher side. It is accordingly prayed that the present appeal be allowed and compensation be modified as above.

4. Per contra, learned counsel for respondents No.1 and 2/claimants vehemently opposes the submissions made on behalf of the appellant and submits that it was the clear pleaded case of the claimants before the learned Tribunal that the deceased was a labourer who was earning Rs.6,000/- per month. Learned counsel submits that even as per the Notification produced by the appellant/Insurance Company, the daily wage of an unskilled labourer is about Rs.205/-; which is approximately Rs.6,323/- per month. Therefore, there is no error in the income of Rs.6,000/- per month as assessed by the Tribunal. Learned counsel further submits that admittedly, the deceased was married at the time of accident, and the Claim Petition was filed on behalf of his parents wherein his widow was arrayed as pro-forma respondent No.4. It is submitted that in this



situation, deduction of 1/3rd has been correctly made by the learned Tribunal. It is accordingly prayed that the present appeal be dismissed.

5. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find some merit in the submissions advanced on behalf of the appellant.

6. It is the case of the appellant that income of the deceased has been taken on the higher side as Rs.6,000/- per month; whereas as per the Minimum Wage Notification dated 01.07.2013, monthly wage of an unskilled labourer is Rs.5341.51/- rounded off to Rs.5350/- per month. In this regard, there is some merit in the submission of learned counsel for the claimants. Perusal of record shows that in the Claim Petition, the claimants had clearly pleaded that deceased *“was working as labourer under the contractor “Khem Chand Enterprises” in Dan Block Brake Parts Pvt. Ltd. and used to earn Rs.6,323/- per month.”* As per the Notification dated 01.07.2013 the daily wage of an unskilled worker is Rs.205.44/-; which comes to approximately Rs.6323/- per month. In this way, I find no error in the income of ₹6000/- per month as assessed by the learned Tribunal.

7. Further, age of the deceased was determined to be 30 years at the time of accident, on the basis of pleadings. As such, future prospects were to be added @ 40%; whereas the learned Tribunal has erroneously made an addition of 50% towards future prospects.



8. As regards deduction towards personal and living expenses, no doubt, the claimant No.1 has been rightly held to be only one entitled to compensation. However, given the admitted fact that deceased was married at the time of accident, deduction of 1/3rd towards personal expenses has been correctly made. Given the age of the deceased, multiplier of 17 has been correctly applied. Under the conventional heads, the learned Tribunal has awarded nothing towards loss of estate; Rs.25,000/- towards funeral expenses; and nothing towards consortium. However, reliance may be placed upon latest judgment of the 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. Therefore, present appeal is **partly allowed**; and compensation payable to the claimants is re-assessed as under:-

Head	Awarded by learned Tribunal	Re-assessed compensation
Income	Rs.6,000/- per month	Rs.6,000/- per month
Annual income	Rs.72,000/-	Rs.72,000/-
Future prospects	(50%) Rs.1,08,000/-	(40%) Rs.1,00,800/-
Deduction	1/3 rd	1/3 rd
Annual dependency	(of claimant No.1 and widow) Rs.72,000/-	Rs.1,00,800/- Rs.33,600/- Rs.67,200/- - =
Multiplier	(17) Rs.12,24,000/-	Rs.67,200/- x 17 = Rs.11,42,400/-
Last rites	Rs.25,000/-	Rs.15,000/-
Loss of estate	Nil	Rs.15,000/-



Consortium	Nil	Rs.40,000/-
Total	Rs.12,49,000/-	Rs.12,12,400/-

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

27.01.2026
Sunena

(Nidhi Gupta)
Judge

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