



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-2137-2025 (O&M)

Date of Decision: 04.04.2025

New India Assurance Co. Ltd.

....Appellant

Versus

Rupa Kumari and others

....Respondents

**CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present: - Mr. Rahul Pathania, Advocate  
for the appellant-Insurance Company.

**NIDHI GUPTA, J.**

**CM-6758-CII-2025**

Prayer in this application filed under Section 5 of the Limitation Act, 1963 is for condonation of delay of 39 days in filing the accompanying appeal.

Heard.

For the reasons stated in the application which is supported by an affidavit, the same is **allowed**; and delay of 39 days in filing the accompanying appeal is condoned.

**FAO-2137-2025 (O&M)**

1. The present appeal has been filed by the appellant-Insurance Company laying challenge to the Award dated 04.11.2024 passed by the learned Motor Accident Claims Tribunal, Sonipat (hereinafter referred to as 'the learned Tribunal') whereby the claim petition bearing MACP No.



336 dated 19.05.2022 filed by the claimants/respondents No. 1 to 3 herein under Sections 166 and 140 of the Motor Vehicles Act, 1988, has been allowed; and the claimants have been granted compensation of ₹33,06,220/-. The 03 claimants are the: i) widow; and ii) parents of deceased - Suraj Kumar Harijan who was stated to be 22 years old at the time of accident.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that deceased-Suraj Kumar had died in a motor vehicular accident that took place on 19.04.2022 due to rash and negligent driving of bus bearing registration No.PB-22-G-3033 (hereinafter referred to as ‘the offending vehicle’), being driven by respondent No. 4; owned by respondent No. 5; and insured by the appellant-Insurance Company. Learned Tribunal awarded compensation as above along with interest @ 6% per annum from the date of filing the claim petition till actual realization. The amount of compensation was apportioned amongst the claimants as under: -

1.Rupa Kumari wife	40 of the compensation amount
2.Bijali Devi, mother	30% of the compensation amount
3.Kanhu Harijan, father	30% of the compensation amount

3. The only ground on which the appellant-Insurance Company assails the impugned Award dated 04.11.2024 is that income of the deceased has been taken by the learned Tribunal on the higher side as ₹15,450/- per month on the basis of DC Rates. Learned counsel submits that income of the deceased ought to have been assessed as per the



relevant Minimum Wages Notification as ₹10,000/- per month; and could not have been assessed on the basis of DC rates.

4. In support, learned counsel for the appellant relies upon 02 judgments of the Hon'ble Apex Court in *(i) Civil Appeal No. 9014 of 2011, titled as Govind Yadav vs. The New India Insurance Company Limited, decided on 01.11.2011; (ii) Manusha Sreekumar and other vs. The United India Insurance Co. Ltd., Law Finder Doc Id # 2049874* and of this Court in *FAO-3235-2017 with XOBJC-187-CII-2017, titled as SBI General Insurance Co. Ltd. vs. Rinku and others decided on 09.03.2023*. It is submitted that it has been held in the aforesaid judgments that notional income of the deceased is to be assessed on the basis of Minimum Wages prevalent on the date of accident. It is accordingly, prayed that the impugned Award be set aside/modified.

5. No other argument is raised on behalf of the appellant.

6. I have heard learned counsel for the appellant and perused the case file in great detail.

7. I find no merit in the sole submission made on behalf of the appellant. No doubt, it is the norm that the income is usually assessed on the basis of Minimum Wages 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 law. Reliance placed by learned counsel for the appellant upon the aforementioned judgments is misconceived as, no opinion in the said judgments has been given that income cannot be assessed on the basis of DC rates.



8. Further, it was the pleaded case of the claimants/respondents No. 1 to 3 herein that at the time of death, the deceased was doing a private job in Ludhiana and was earning ₹30,000/- per month. However, no evidence was produced on record by the claimants to prove the alleged avocation and monthly income of the deceased. As such, in assessing the income of the deceased, the learned Tribunal has duly taken note of the fact that *'The income provided in Minimum Wages Act, revised from time to time can be a basic criteria or guideline to assess the income of deceased or injured, as the case may be. The facts and circumstances of each case has to be evaluated. No restriction can be imposed in assessing the income of the deceased or the injured in order to assess just and fair compensation for the dependents. The provision to grant compensation under Motor Vehicles Act is a beneficial legislation and in such like situation, the restriction to assess the income of deceased victim as provided under Minimum Wages Act is unjustified'*. Accordingly, the learned Tribunal had taken income of the deceased as per the rates issued by Haryana Kaushal Rozgar Nigam for the financial year 2022-2023 as per notification dated 19.01.2022 no. 7004-F-41/60571 (FIN-GEN), dated 21.11.1941.

9. Further, on the basis of Aadhar Card of the deceased Ex. P-11, age of the deceased was established to be 22 years. Although, in the Post-mortem Report, the age of the deceased was mentioned as 35 years of age, however, age of the deceased was not disputed by the appellant-Insurance Company and the owner and driver of the offending vehicle



before the learned Tribunal, as such, age of the deceased was taken to be 22 years.

10. As the deceased was 22 years of age at the time of alleged accident, 40% towards future prospects have been correctly added by the learned Tribunal in conformity with the law as laid down by the Hon'ble Supreme Court in *National Insurance Company Limited vs. Pranay Sethi and others, (2017) 16 SCC 680*. The learned Tribunal has further correctly made a deduction of 1/3<sup>rd</sup> towards personal expenses, as there are three claimants; and as the deceased was 22 years of age at the time of accident, multiplier of 18 has correctly been applied as per law laid down by the Hon'ble Supreme Court in *Sarla Verma vs. Delhi Transport Corporation, Law Finder Doc Id # 188882*. The learned Tribunal has further granted an amount of ₹15,000/- towards loss of estate; ₹15,000/- towards funeral expenses. Further, an amount of ₹40,000/- each has been granted to the claimants towards consortium and another amount of ₹10,000/- has been granted towards litigation expenses. The learned Tribunal awarded the compensation in following manner:-

<b>Heads</b>	<b>Amount</b>
Income	₹15,450/-
Future Prospects	40% i.e. ₹6180/- (15450+6180=21630/- x 12 = ₹2,59,560/-)
Deduction	1/3 <sup>rd</sup> i.e. ₹86,520/- (₹2,59,560/- minus ₹86,520/- = ₹1,73,040/-)
Multiplier 18	₹1,73,040/- x 18 = ₹31,14,720/-
Loss of Estate	₹18,150/-
Funeral expenses	₹18,150/-
Litigation expenses	₹10,000/-
Loss of filial consortium	₹48,400 x 2 = ₹96,800/-
Loss of spousal consortium	₹48,400/-
<b>Total Compensation along with interest @ 6% per annum</b>	₹33,06,220/-



11. In view of the discussion above, I find no case is made out that merits interference with the impugned Award. The appeal is **dismissed.**

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

**04.04.2025**  
*rishu*

**( NIDHI GUPTA )**  
**JUDGE**

**Whether speaking/reasoned Yes/No**

**Whether Reportable Yes/No**