

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos.6981-82 OF 2022
(Arising out of SLP(C)Nos.30364-30365 of 2019)

GURPREET KAUR & ORS.

... APPELLANTS

Versus

UNITED INDIA INSURANCE COMPANY LTD. & ORS.

... RESPONDENTS

O R D E R

1. Leave granted.

2. The appellant - claimants are aggrieved by the order dated 24.09.2019 passed by the High Court of Punjab and Haryana at Chandigarh whereby the compensation of Rs.43,75,000/-, awarded by the Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal'), has been substantially reduced to Rs.16,57,600/-.

3. The deceased - Pyara Singh was the husband of appellant No.1, father of appellant Nos.2 to 3 i.e. the minor children, and son of appellant Nos.4 to 5 i.e. his mother and father.

4. On 12.11.2014, when Pyara Singh was driving his motorcycle bearing No.PB-39E-2372 along with his friend Mukhtiar Singh (pillion rider), a JCB bearing registration No.HR-45A-1630, driven by respondent No.2 - Sanjay came from the opposite side of the road and crashed into the motorcycle. As a result of the accident, Pyara Singh sustained multiple injuries which led to his instant death. His friend Mukhtiar Singh was also severely injured.

5. It is not in dispute that the deceased was 25 years' old

and was hale and hearty. He was stated to be working as a contractor for lifting of earth and was earning Rs.50,000/- per month. It has also come on record that the deceased had purchased a Tractor bearing registration No.HR-05-AL-3294 for which he had taken a loan of Rs.3,90,533/- from Kotak Mahindra Bank. The deceased was regularly paying the monthly instalment of Rs.11,550/- towards the tractor's loan from 10.03.2014 onwards and the entire loan liability was discharged by 24.03.2015 with payment being made even after his death.

6. Keeping in mind the rate at which EMI was being paid, the Tribunal held that the deceased must be earning at least Rs.25,000/- per month prior to his death in the accident. After taking $\frac{1}{4}$ th of monthly income of the deceased towards personal expenses, the Tribunal applied multiplier of 18 and assessed the total compensation as Rs.43,75,000/-. The High Court, unfortunately, overlooked the factors relied upon by the Tribunal to assess the monthly income of the deceased at Rs.25,000/- per month. The High Court came to the conclusion that the mere fact that the deceased had paid instalments of the loan could not itself be an evidence that the money actually represented his income or can form the basis for assessment of income of the deceased at Rs.25,000/- per month. Taking into consideration the Notification issued by the State of Haryana, fixing minimum wage at the relevant time, the High Court assessed the income of the deceased at Rs.7,000/- per month, and on this premise, as stated above, the compensation was reduced.

7. We have heard learned counsel appearing on behalf of the

parties and carefully perused the material placed on record.

8. Though, there is no evidence on record regarding the income of deceased Pyara Singh, however, from the testimony of P.W.4 - Amar Kumar, Assistant Manager, Kotak Mahindra Bank Limited, it is clear that the deceased - Pyara Singh was regularly making the payment of Rs.11,550/- as instalment to discharge his loan liability towards the tractor. At this rate, the entire loan was paid back within a year or so. That clearly establishes the earning capacity of the deceased. It is also the case of the appellants-claimants that the deceased was working as a contractor and was earning Rs.50,000/- per month. The Tribunal adopted a balanced approach and keeping in view factors like : (i) the payment of monthly instalment of Rs.11,550/- towards loan of the tractor; (ii) Maintaining a family comprising of wife, two minor children and parents; (iii) Affording tractor and motorcycle; (iv) that the deceased was working as a contractor; assessed his income at Rs.25,000/- per month.

9. In our considered view, the Tribunal's approach is quite justified in law as well as on facts. In the summary proceedings where the approach of the Tribunal's determination must be in conformity with the object of the welfare legislation, it was rightly held that the monthly income of the deceased could not be less than Rs.25,000/-. The reason assigned by the High Court to reduce the monthly income of the deceased is totally cryptic and has no rationale. The Notification of Minimum Wages Act can be a guiding factor only in a case where there is no clue available to evaluate monthly income of the deceased. Where positive evidence

has been led, no reliance on the Notification could be placed, particularly when it was nobody's case that the deceased was a labourer as presumed by the High Court.

10. For the reasons aforesaid, we are inclined to allow these appeals. Ordered accordingly.

11. Consequently, the judgment and order dated 24.09.2019 passed by the High Court of Punjab and Haryana at Chandigarh is set aside and the Award dated 12.01.2016 passed by the Motor Accident Claims Tribunal, Karnal is restored. The appellants are held to be entitled to the compensation in accordance with the Tribunal's Award. The balance amount, after adjusting the amount which has already been paid, shall be deposited along with interest before the Tribunal, within a period of two months from the date of receipt/production of a copy of this order. The Tribunal shall disburse the said compensation amount to the appellants as per its Award.

12. As a sequel to the above, pending interlocutory application also stands disposed of.

.....J.
(SURYA KANT)

.....J.
(M.M. SUNDRESH)

NEW DELHI;
SEPTEMBER 27, 2022.

ITEM NO.8

COURT NO.13

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).30364-30365/2019

(Arising out of impugned final judgment and order dated 24-09-2019 in FAO No.3113/2016 and FAO No.6922/2016 passed by the High Court of Punjab & Haryana at Chandigarh)

GURPREET KAUR & ORS.

Petitioner(s)

VERSUS

UNITED INDIA INSURANCE COMPANY LTD. & ORS.

Respondent(s)

([MACT MATTER]

IA No.196335/2019 - EXEMPTION FROM FILING O.T.)

Date : 27-09-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s) Mr. Abhimanyu Tewari, AOR
Ms. Eliza Bar, Adv.
Ms. Dilmrig Nayani, Adv.
Mr. Tushar Bathija, Adv.
Mr. Siddhant Saroha, Adv.

For Respondent(s) Mr. Abhishek Gola, Adv.
Mr. Sudhir Naagar, AOR
Mr. Arun Nagar, Adv.
Mr. Vikrant Mehta, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.
2. The appeals are allowed in terms of the signed order.
3. As a sequel to the above, pending interlocutory application also stands disposed of.

(SATISH KUMAR YADAV)
DEPUTY REGISTRAR

(PREETHI T.C.)
COURT MASTER (NSH)

(Signed order is placed on the file)