

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-4666-2003 (O&M)

Date of Decision: July 17, 2015

Pardeep Kumar Sharma and another

.....Appellants

Versus

Labh Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Ashok Jindal, Advocate
for the appellants.

Mr.Rohit Kumar, Advocate
for respondent No.1.

Mr.Lalit Garg, Advocate
for respondent No.3-Insurance Company.

.....

1. ***Whether Reporters of local papers may be allowed to see the judgment ? yes***
2. ***To be referred to the Reporters or not ? yes***
3. ***Whether the judgment should be reported in the Digest? yes***

Naresh Kumar Sanghi, J.(Oral)

The present first appeal against the order has been
filed by father (Pardeep Kumar Sharma) and mother (Gita

Sharma) of Priya (since deceased) challenging the award, dated 06.08.2003, passed by learned Motor Accidents Claims Tribunal, Bathinda (for brevity, 'the Tribunal') whereby an award of ₹1,30,000/- (Rupees one lac and thirty thousand only) along with interest @ 6% per annum was passed in favour of the appellant-claimants and the respondent -Insurance Company was directed to satisfy the award.

Learned counsel for the appellants has submitted that in view of the age of the deceased, multiplier should have been of 18 and the amount awarded under conventional head by the learned Tribunal is on the lower side.

Learned counsel for the respondent-Insurance Company has fairly conceded that in view of the judgments passed by Hon'ble the Supreme Court in the matters of **Sarla Verma vs Delhi Transport Corporation**, 2009 (3) R.C.R. (Civil) 77 and **Rajesh and others vs Rajbir Singh and others**, (2013) 9 SCC 54, the multiplier should be of 18. He further fairly concedes that under conventional heads, the appropriate amount can be enhanced.

I have heard the learned counsel for the parties and with their able assistance gone through the material available on

record.

Since the factum of accident and the death of Priya is not in dispute, therefore, this Court does not deem it fit to discuss the said issues in details. It is suffice to mention that as per the version of appellant-claimants, on 08.12.2000 at about 12.00 noon, Priya (since deceased) along with her cousin Gaurav and others was going to Hanumangarh in a jeep bearing registration No.UP-07-G-7741 being driven by Jagdish Singh. Appellant No.1 and other family members were going ahead of the jeep being occupied by Priya (since deceased). When the above stated two jeeps reached near village Jassi Baghwali, offending bus bearing registration No.PB-11-B-9341, being driven rashly or negligently by Labh Singh came from the opposite side and hit the jeep occupied by Priya (since deceased). The occupants of the jeep sustained multiple injuries. The parents of Priya (since deceased) filed the claim petition alleging that Priya was aged about 17 years and was a student of 11th class at the time of her death. They claimed ₹5,00,000/- (Rupees five lacs only) along with interest @ 18% per annum from the driver, the owner and the Insurance Company of the offending vehicle.

The following issues were framed by learned Tribunal:

- “1. Whether Priya met with an accident on 08.12.2000 at about 12 noon in the revenue limits of PS Sangat with bus No.PB-11-B-9341 and received injuries as a result of which she died while Labh Singh respondent was driving the bus ? OPA
2. Whether the claimants are entitled to compensation as claimed in the claim petition and if so what amount and from whom? OPA
3. Whether the respondent Labh Singh was not holding a valid driving licence at the time of accident ? OPR
4. Relief.”

While deciding issue No.1, the learned Tribunal held that the accident in question had taken place due to rash or negligent driving of the offending bus by its driver and, as such, issue No.1 was decided in favour of the appellant-claimants.

While dealing with issue No.2, the learned Tribunal held that Priya (since deceased) was aged about 14-15 years at the time of her death and, as per Section 163-A of the Motor Vehicles Act, 1988, her notional income can be assumed to be ₹15,000/- (Rupees fifteen thousand only) per annum. One-third

amount was deducted for the personal expenses of the deceased herself and hence, the dependency was assessed to the tune of ₹10,000/- (Rupees ten thousand only) per annum. Multiplier of 13 was applied and a sum of ₹1,30,000/- (Rupees one lac and thirty thousand only) along with interest @ 6% per annum was awarded.

This Court is of the considered opinion that the learned Tribunal has rightly assessed the notional yearly income of Priya (since deceased) as ₹15,000/- (Rupees fifteen thousand only). There is no necessity to deduct 1/3rd income from the notional income. As per **Sarla Verma's** case (supra) and **Rajesh's** (supra) and also taking into consideration the ratio of the judgment in **Munna Lal Jain and Anr. vs. Vipin Kumar Sharma & Ors. 2015(5) JT 1 (Supreme Court)**, this Court deems it fit to apply the multiplier of 18 taking into consideration the age of the deceased. Therefore, the total dependency would be of ₹2,70,000/- (Rupees two lacs and seventy thousand only). An amount of ₹80,000/- (Rupees eighty thousand only) can be awarded to the appellant-claimants under conventional heads. Thus, the total figure arrives at ₹3,50,000/- (Rupees three lacs and fifty thousand only). Ordered accordingly. The calculations made

above have also been shown in the table made below:-

Sr. No.	Heads	%/fraction / multiplier applied	Detail of calculation	Amount (in ₹)
(A)	(B)	(C)	(D)	(E)
1	Notional income		Per annum	15000
2	Multiplier to be applied	18		
3.	Compensation after applying the multiplier		15000 x 18	2,70,000
4.	Conventional heads			80,000
5	Total		3(D) + 4(D)	3,50,000

In the matters of **Neeta and others v. Divisional Manager, Maharashtra State Road Transport Corporation, 2015 ACJ 598,** and **Jitendra Khim Shankar Trivedi v. Kasam Daud Kumbhar, 2015 ACJ 708,** Hon'ble the Supreme Court had awarded interest @ 9% per annum. Therefore, the appellant-claimants are also entitled to interest @ 9% per annum.

Hence, the award dated 06.08.2003 is modified to the extent that the appellant-claimants shall be entitled to ₹3,50,000/- (Rupees three lacs and fifty thousand only) alongwith interest @ 9% per annum from the date of filing of the petition till full and final amount is paid. The amount already paid by the respondent-Insurance Company shall be deducted from the award passed by

this Court.

With the above modification, the present appeal is
party allowed.

July 17, 2015
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(NARESH KUMAR SANGHI)
JUDGE