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

**1. FAO No.6136 of 2010 (O&M)
Date of Decision: July 28, 2015**

Oriental Insurance Company Ltd. .. Appellant

vs.

Radha Krishan Chhabra and others .. Respondents

**2. FAO No.448 of 2011 (O&M)
Date of Decision: July 28, 2015**

Radha Krishan Chhabra and another .. Appellants

vs.

Nirmal Singh and others .. Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. J.S. Chatrath, Advocate for
Mr. Ashwani Talwar, Advocate for the appellant
in FAO No.6136 of 2010 and
for respondent No.3 in FAO No.448 of 2011.

Mr. Gopal Mittal, Advocate for the appellants
in FAO No.448 of 2011 and
for respondent Nos.1 and 2 in FAO No.6136 of 2010.

Mr. M.B. Jain, Advocate for respondent No.6
in FAO No.448 of 2011 and for respondent No.7
in FAO No.6136 of 2010.

Mr. Deepak Thapar, Advocate for respondent No.7
in FAO No.448 of 2011.

1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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Kuldip Singh J.

This judgment of mine will dispose of two FAO Nos. 6136 of 2010 filed by Oriental Insurance Company Limited claiming that higher compensation has been awarded and FAO No.448 of 2011 filed by the claimants for enhancement of compensation against the same Award dated 04.08.2010 passed by the Motor Accident Claims Tribunal, Fast Track Court, Patiala (for short 'the Tribunal').

The common facts of the case are that Mayur Chhabra @ Micky, aged about 20 years 4 months, who was the only son of his parents, died in a motor vehicular accident on 23.12.2007. At the time of the accident, he was travelling in a Verna car bearing temporary No.PB-08B-6168, which was being driven by his friend Manpreet Kainth. When their car crossed Sirhind byepass and was going towards Rajpura side, then a tanker trolla bearing registration No.PB-11Y-4914 was found going ahead of the car. When Manpreet Kainth tried to cross the tanker trolla, then said tanker trolla without giving any indication took a turn towards Bedi Dhaba rashly and negligently. As a result of which, it hit Verna car badly from its front side where Mayur Chhabra was sitting. The tanker trolla ran over Verna car and Mayur Chhabra was badly injured. It was found that Nirmal Singh-respondent was driving the said tanker trolla. An ambulance was arranged to remove Mayur Chhabra to the hospital but he died on the way to the hospital. FIR No.323, dated 24.12.2007, under Sections 279, 337 and304-A IPC was registered at Police Station Rajpura.

It was claimed in the claim petition that the deceased was doing MBA from Chandigarh. He was an agent of Reliance Life Insurance Co. and was also working with M/s Prem Agro Tech. Pvt. Ltd and his monthly income was ₹19,000/-.

The Tribunal after recording the evidence, did not rely upon the documents regarding income as an agent of Reliance Life Insurance Co. as well as salary from M/s Prem Agro Tech. Pvt. Ltd. The Tribunal relied upon the income tax return (Exs.P15 and P-16). According to the income tax return, during the assessment year 2006-07, the annual income of Mayur Chhabra was ₹98,960/- and during the assessment year 2007-08, his income up to his death i.e. 23.12.2007 was ₹61,662/-. Therefore, the Tribunal assessed the annual income of the deceased at ₹1,00,000/-. The multiplier of 15 was applied as per the age of the parents of the deceased. After deducting 50% of income, the dependancy of the claimants was assessed to the tune of ₹7,50,000/-. ₹20,000/- on account of funeral expenses were also awarded. The total compensation was calculated at ₹7,70,000/-, which was ordered to be paid by respondent Nos.1 and 3 i.e. Nirmal Singh-driver as well as Oriental Insurance Co. Ltd. jointly and severally with interest @ 6% per annum from the date of filing of the claim petition till its realization.

Aggireved by the said Award claimants as well as the Insurance Company have filed separte appeals.

First of all, it comes out that even the financer of Verna car i.e. State Bank of Patiala has been made party as respondent

No.7 in FAO No.448 of 2011. Therefore, its name is delted from the array of the parties. The name of the financer of the Verna car was deleted ealier vide order dated 08.08.2013 passed in FAO No.6136 of 2010.

I have heard learned counsel for the parties and have also carefully gone through the case file.

Learned counsel for the Insurance Company has argued that the income tax return (Exs.P-15 and P-16) cannot be relied upon as no PAN was mentioned in the income tax return. Ex.P21 is the copy of PAN card of the deceased.

Admittedly, the income tax return Ex.P15 was filed before the death of Mayur Chhabra (deceased) i.e. on 11.09.2007 and it bears the seal and the receipt of the Income Tax Officer also. Therefore, whether the PAN was mentioned or not, the income tax return does not lose its significance. The income tax return Ex.P16 was filed after the death of Mayur Chhabara (deceased) by calculatng the income of the deceased up to the date of his death. In the income tax return Ex.P15, the annual income of the deceased was mentioned as ₹98,960/-. Therefore, the Tribunal was justified in assessing the annual income of the deceased at ₹1,00,000/-. Therefore, the findings recorded by the Tribunal to the said effect are affirmed.

Recently a three Judges Bench of Hon'ble Supreme Court in ***“Munna Lal Jain and another vs Vipin Kumar Sharma and others”*** in Civil Appeal No.4497 of 2015, decided on

15.05.2015, examined the question of grant of compensation to the self-employed person. Deceased was self-employed *Pandit* and was bachelor in the said case. The question of grant of future prospects to self-employed person was also considered. The Apex Court after examining the authority of ***"Santosh Devi vs National Insurance Company Limited", (2012) 6 SCC 421, "Smt. Sarla Verma and others vs Delhi Transport Corporation and another" (2009) 6 SCC 121,*** took the view that even in case of self-employed person, addition of future income on account of future prospects is to be added.

After considering the authorities of ***Smt. Sarla Verma's*** case (*supra*)***, "Reshma Kumar and others vs Madan Mohan and another", 2013(9) SCC 65*** and ***Santosh Devi's*** case (*supra*)***,*** the Hon'ble Supreme Court also took the view that the multiplier as per age of the deceased is to be applied and not as per age of the dependants and accordingly enhanced the compensation.

It being so, the matter has already been settled by Hon'ble the Supreme Court. Therefore, even in case of self employed, the income on account of future propspects is to be added and that the multiplier as per the age of the deceased is to be applied.

Therefore, keeping in view the age of the deceased as 21 years, 50% of his income, which was taken by the Tribunal as ₹1,00,000/- per annum, is added as future prospects. Thus, the income of the deceased comes to ₹1,50,000/-. After deducting personal expenses as 50%, it comes to ₹75,000/- per annum. As per the age of the deceased, the multiplier of 18 is appied. In this way, the dependancy of the claimants comes to ₹13,50,000/-. ₹1,00,000/- are allowed on account of loss of love and affection to the parents. ₹25,000/- on account of funeral expenses and another ₹25,000/- for loss of estate are also allowed. The total amount of compensation is recalculated at ₹15,00,000/-. The enhancemed amount of compensation shall be paid with interest @ 7.5% per annum from the date of filing of the claim petition till its realization. Nirmal Singh-driver as well as Oriental Insurance Company Ltd. shall be liable to pay the compensation jointly and severally.

Accordingly, FAO No.448 of 2011 filed by the claimants is allowed to the aforesaid extent and FAO No.6136 of 2010 filed by the Oriental Insurance Company Ltd. stands dismissed.

(KULDIP SINGH)
JUDGE

July 28, 2015
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