

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

**FAO No.3188 of 2013 (O&M)
Date of Decision: April 21, 2015**

National Insurance Ltd.

.. Appellant

vs.

Dharampal and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. R.C. Kapoor, Advocate for the appellant.

Mr. I.S. Mann, Advocate for respondent Nos.1 to 4.

- 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?*

Kuldip Singh J.

This is National Insurance Company's appeal against the Award dated 04.02.2013 passed by the Motor Accident Claims Tribunal, Sri Muktsar Sahib (in short 'the Tribunal').

Brief facts of the case are that Navdeep Pal, who was working as Operation Theatre Technician at Mai Bhago Ayurvedic Medical College and Hospital, Sri Muktsar Sahib, aged about 23 years, died in a motor vehicular accident, which took place on 01.06.2011 at Kotkapura-Muktsar Road. Respondent No.1 was driving the offending trolly bearing registration No.RJ-07GA-7032, which caused the accident.

The Tribunal took into consideration the monthly salary of the deceased. However, it also noted of the fact that the deceased had applied for the post of Operation Theater Attendant and interview letter was issued to him. The interview was scheduled to be held on 14.06.2011 but unfortunately, the deceased had met with the accident on 01.06.2011. The pay for the said post was ₹8,500/- per month. It was assumed that he would have got the said job and he would have also got the Govt. job in near future. Therefore, the income of the deceased was taken to be ₹7,000/- per month. After making 1/3rd deduction, the total dependancy was calculated at ₹10,08,072/-. Under the other heads the compensation awarded is as under:

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| 1. Loss of Estate | ₹5,000/- |
| 2. Funeral Expenses | ₹5,000/- |
| 3. Loss of Consortium to wife | ₹10,000/- |

Therefore, the total compensation of ₹10,28,072/- was granted by the Tribunal.

The Insurance Company dissatisfied with the Award passed by the Tribunal, has come up in the present appeal, stating that the income of the deceased was wrongly assessed.

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

After hearing both the parties, I am of the view that the Tribunal erred in calculating the income on the basis of presumption.

Merely from the interview letter, it was assumed that the deceased

would have got the said job and he would have also got the Govt. job in near future. Therefore, the income of the deceased was wrongly assessed @ ₹7,000/- per month.

As per salary certificate Ex.C10, the deceased was drawing ₹2,800/- per month. Therefore, his income is to be taken as ₹2,800/- per month. 50% of the income i.e. ₹1,400/- is added on account of future prospects. Thus the total income comes to ₹4,200/-. After deducting 1/3rd i.e. ₹1,400/- as personal expenses, the dependency of the claimants comes to ₹2,800/- per month. Since the deceased was about 23 years of the age at the time of the accident, therefore, the multiplier of 18 is applied and amount of compensation comes to ₹6,04,800/- (Rs.2800x12x18).

Since the matter has come before this Court, therefore, I am of the view that a just and proper compensation is to be granted. The Tribunal had erred in granting lesser compensation under the various heads i.e. loss of estate, funeral expenses, loss of consortium etc. and also not allowing any compensation on account of loss of love and affection to the mother and the minor son. Therefore, in addition to the abovenoted, compensation under different heads is also awarded:

- | | | |
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| 1. | Loss of consortium to the wife | ₹1,00,000/- |
| 2. | Loss of love and affection to minor son | ₹1,00,000/- |
| 3. | Loss of love and affection to mother | ₹50,000/- |
| 4. | Funeral expenses | ₹25,000/- |
| 5. | Loss of estate | ₹25,000/- |

Thus the compensation in total is enhanced to ₹9,04,800/-.

It is further directed that out of the total amount of compensation, a fixed amount of ₹1,00,000/- shall go to the father and mother of the deceased, which shall be equally shared by them. The remaining amount, shall equally shared by the wife and the minor son of the deceased. The share of the minor son shall be deposited in a nationalized bank in a fix deposit by mentioning his date of birth and on his attaining the age of majority, the amount shall be disbursed to him without any further orders from the Court.

The appeal is accordingly disposed of.

April 21, 2015
sarita

(KULDIP SINGH)
JUDGE