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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 21st April, 2015

+ **MAC.APP. 1071/2012**

HARPAL SINGH & ANR.

..... Appellants

Through: Mr. S.N.Gupta, Adv.

versus

M/S. ICICI LOMBARD & ANR.

..... Respondents

Through: Ms. Suman Bagga, Adv. with

Mr. Pankaj Seth, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

G. P. MITTAL, J. (ORAL)

1. The appeal is for enhancement of compensation of ₹12,35,000/- awarded by the Motor Accident Claims Tribunal (the Claims Tribunal) in favour of the Appellants for the death of Jaspreet Singh, who suffered fatal injuries in a motor vehicular accident which occurred on 13.01.2010.
2. It is urged by the learned counsel for the Appellants that Jaspreet Singh was a brilliant student who was pursuing B.Tech (Bachelor of

Technology) in Computer Science & Engineering from Guru Tegh Bahadur Institute of Technology affiliated to Guru Gobind Singh Indraprastha University. He had passed 12th class examination from a prestigious school, *i.e.* Gyan Bharati School, Saket, New Delhi affiliated to the Central Board of Secondary Education (CBSE). It is stated that the Claims Tribunal assumed the potential income of the deceased to be just ₹15,000/- per month, which is very low and needs to be raised.

3. On the other hand, learned counsel for Respondent no.1 (M/s. ICICI Lombard) states that the compensation awarded is just and reasonable.
4. It is no longer *res integra* that the potential income of a student who suffers injuries in a motor vehicular accident must be considered for awarding loss of dependency or loss of earning capacity.
5. In the case of *Haji Zainullah Khan (Dead) by Lrs. v. Nagar Mahapalika, Allahabad, 1994 (5) SCC 667*, death of a young boy aged 20 years took place in an accident which happened in the year 1972. The deceased was a student of B.Sc Ist year (Biology). Compensation of ₹1,46,900/- was increased and rounded off to ₹ 1,50,000/-.
6. In *Ganga Devi & Ors. v. New India Assurance Co. Ltd. & Ors., MAC APP. 359/2008*, decided by this Court on 23.11.2009, which related to

the death of a student (studying medicine) who was doing internship and was to be awarded the MBBS degree in a short time, the Tribunal awarded compensation of ₹ 9,35,352/- on the basis of the minimum wages of a Graduate. This Court observed that although the deceased was getting a stipend of ₹ 5,000/- per month at the time of his death due to the accident, he would have ultimately joined as a doctor at a salary ranging between ₹ 16,000/- per month to ₹ 25,000/- per month. Thus, the average monthly income of the deceased was taken as ₹ 18,000/- per month and after adding 50% towards future prospects, the compensation was enhanced to ₹ 21,36,000/-.

7. In *Ramesh Chand Joshi v. New India Assurance Company, MAC APP.212-213/2006* decided on 20.01.2010, this Court took the potential income of a BE (Bio-Technology) First year student of Delhi College of Engineer (DCE) to be ₹38,333/- per month.
8. A Division Bench of Andhra Pradesh High Court in *B.Ramulamma & Ors. v. Venkatesh, Bus Union, Rep. by A.M. Velu Mudaliyar & Anr., 2011 ACJ 1702* held that it was very difficult to determine the income of a student if he was allowed to complete his course. It was observed that it was appropriate and reasonable to take the salary at the entry level fixed by the Govt. for such jobs.

9. There will always be a difference in the potential income of a student pursuing professional course. There are prestigious colleges of medicine like All India Institute of Medical Sciences and Maulana Azad Medical College on the one hand and the colleges run by the private universities on the other. Similarly, there are Indian Institute of Technologies (IITs), Regional Engineering Colleges, Colleges affiliated to State Universities and Private Colleges for Engineering courses.
10. In the instant case, Guru Tegh Bahadur Institute of Technology affiliated to Guru Gobind Singh Indraprastha University, Delhi can be taken as a middle level College and University. Normally, the salary of a Group A officer in the Central and State Government on the date of accident is taken for awarding compensation in case of prestigious and highly reputed colleges. Future prospects are also granted, depending on the facts of the case. In the instant case, the Claims Tribunal relied on the judgment in *Oriental Insurance Company Limited v. Urmila Devi and Ors.*, MAC APP.325/2011, decided on 19.04.2012 to assume the potential income of the deceased (Jaspreet Singh) to be ₹15,000/- per month. In *Urmila Devi (supra)*, the deceased was pursuing MCA from Indira Gandhi National Open

University (IGNOU) by correspondence. Thus, the instant case could not have been equated with the case of *Urmila Devi (supra)* as Jaspreet Singh was doing B.Tech. from a middle level college and University.

11. The salary of a Junior Engineer in the Government in January, 2010 inclusive of House Rent Allowance (HRA) was about ₹25,000/- per month. The placement of a student coming out of such college was also in the range of ₹3 lac to ₹3.5 lacs per annum. In view of this, I tend to adopt the potential salary of the deceased to be ₹25,000/- per month. If the component of HRA is treated as non-taxable, there would be liability of income tax of about ₹5,000/- per annum.
12. The loss of dependency thus, comes to ₹20,65,000/- (25,000/- x 12 – ₹5,000/- (income tax) x 1/2 x 14).
13. In view of the three Judge Bench decision of the Supreme Court in *Rajesh & Ors. v. Rajbir Singh & Ors.*, (2013) 9 SCC 54, the Appellants are further entitled to a sum of ₹1,00,000/- towards loss of love ₹25,000/- towards funeral expenses and ₹10,000/- towards loss to estate.
14. The overall compensation hence, comes to ₹22,00,000/-.
15. Thus, the compensation is enhanced by ₹9,65,000/- which shall carry

interest @ 7.5% per annum from the date of filing of the Claim Petition till its payment.

16. The enhanced compensation along with interest shall be deposited by Respondent no.1 Insurance Company within a period of six weeks, failing which the Appellants will be entitled to interest @ 12% per annum from the date of this judgment.
17. The enhanced compensation along with interest shall be released/held in fixed deposit in favour of the Appellants in terms of the order passed by the Claims Tribunal.
18. The appeal is allowed in above terms.
19. Pending applications, if any, also stand disposed of.

(G.P. MITTAL)
JUDGE

APRIL 21, 2015

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