

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

FAO No. 3302 of 2002 (O&M)

Date of decision: 23.02.2016

Sarita and others

... Appellants

versus

Vikas Malhan and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Shailendra Jain, Senior Advocate with
Mr. Siddharth Jain, Advocate for the appellant.

Mr. R.N. Sinhal, Advocate for the respondents.

K.Kannan, J. (ORAL)

The appeal is for enhancement of claim for death of a person aged 22 years who was a MBA student and an income tax assessee. Even as a student he was said to be earning Rs. 5,000/- on some assignments and his annual income was shown to be Rs. 45,000/-. The claimants were the parents and the sister. The Tribunal assessed the compensation at Rs. 33,000/-.

The prospect of likely earning shall always be relevant for a person who was still a student, in Reshma Kumari Vs. Madan Mohan 2013(9) SCC 65, Priya Vasant Kalgutkar Vs. Murad Shaikh 2009 (15) SCC 64, M.S. Grewal Vs. Deep Chand Sood 2001 (8) SCC 151 and Kishan Gopal Vs. Lata 2013 ACJ 2594, the Supreme Court was considering the assessment of compensation for persons who had not even started earning. In Ashwinbhai Jayanti Lal Modi Vs. Ramkaran

Ramchandra Sharma and another 2015 (2) SCC 180 for the death of 19 years old MBBS student, the Supreme Court was making possible a future projection of income at not less than Rs. 25,000 per month.

In this case, if the death was of a MBA student who had good prospect for earning and also that he was already making income of Rs. 5,000/- as a student, I would take the income of what he should have been surely earning in employment soon after his completion in the year 1997 as relevant and take the income at Rs. 10,000/- and make also a prospect that on an average over a period of what he would have earned not less than Rs.15,000/-. I make deduction of 15% tax and take income of ½ as going towards the contribution to the parents. I slice down the component of love and affection at Rs. 25,000/- each to what is awarded these days by taking due note of the fact that case was of the year 1997 and, therefore, provision for interest in the year 1997 till what is presently done will itself take care of the amounts that are ordered now.

<u>Fatal</u>	Date of accident	19.08.1997	
Age	22		
Occupation	MBA Final year		
Claimants	Parents, sister		
SR. No.	Heads of claim	Tribunal Amount (Rs.)	High Court Amount (Rs.)
1	Income	45,000/- annually	10,000/- per month
2.	Add, % of increase,		15,000/-

	30%/50%		
3.	Deduction, 1/2,		6,375/-
4.	Multiplicand		76,500/-
5.	Multiplier	16	18
6.	Loss of dependence	4,42,672/-	13,77,000/-
7.	Medical Expenses	1,24,063/-	1,50,000/-
8.	Loss of Consortium		
9.	Loss of love and affection		50,000/-
10.	Loss to estate		10,000/-
11.	Funeral Expenses		15,000/-
	Total		16,02,000/-

There shall be an award for Rs. 16,02,000/- and the amount in addition shall also attract interest @ 7.5% from the date of petition till the date of payment. The liability shall be on the owner and driver, consistent with the finding that there was no insurance company for the vehicle at the relevant time of accident. I shall not make any provision for the sister, for, she cannot be treated as a dependant on the brother when her own parents were still alive and could take care of her needs.

The award is modified and the appeal is allowed to the above extent.

(K.KANNAN)
JUDGE

23.02.2016

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