

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

**FAO No.2108 of 2013
Decided on: 03.08.2016**

Noorjahan

....Appellant

Versus

Kamaluddin and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Sanjeev Goyal, Advocate
for Mr. Ashish Gupta, Advocate
for the appellant.

Mr. D.R. Bansal, Advocate
for respondent No.11.

REKHA MITTAL, J.

The present appeal has been filed by Noorjahan, unfortunate mother of deceased Shakir Hussain who died in a motor vehicular accident that took place on 13.05.2011.

The learned Tribunal assessed income of the deceased on the basis of minimum wages of an unskilled worker at Rs.4,500/- per month, deducted 50% towards personal expenses, applied multiplier of 18 and assessed loss of dependency to the tune of Rs.4,86,000/-. In addition, an amount of Rs.10,000/- and Rs.5,000/- respectively was awarded for funeral expenses and transportation, making total compensation to the tune of Rs.5,01,000/-.

Counsel for the appellant has submitted that the Tribunal in para 23 of the award has held that the deceased was a student of Mechanical Engineering, having a good academic record proved from the mark-sheets Ex.P-10 to Ex.P-12. It is vehemently argued that as the

deceased was doing diploma in Mechanical Engineering, the Tribunal has wrongly assessed his income on the basis of minimum wage of an unskilled worker. On the contrary, the same is required to be assessed in view of earning capacity of a diploma holder in Mechanical Engineering. No benefit has been allowed for increase in income for future prospects in the light of judgment of Hon'ble the Supreme Court ***“Rajesh and others Vs. Rajbir Singh and others”***, 2013(3) R.C.R. (Civil) 170. The appellant is entitled to compensation for loss of love and affection and compensation awarded under conventional heads requires re-look and enhancement.

Counsel for the contesting respondent has supported the award passed by the Tribunal with the submissions that the learned Tribunal has rightly assessed income of the deceased on notional basis as the deceased was a student at the time of accident.

I have heard counsel for the parties and perused the paperbook particularly the award passed by the Tribunal.

Counsel for the respondent has not disputed that the deceased was a student of Polytechnic Neelokheri (Karnal) and was doing diploma in Mechanical Engineering. He had already passed his first and second semesters of diploma. The mark-sheets of the deceased Ex.P-10 to Ex.P-12 indicated that the deceased was an intelligent student. In view of educational qualification to be completed by the deceased in near future, it is expedient in the interest of justice that income of the deceased is assessed at Rs.10,000/- per month. After allowing benefit of increase in income to the extent of 50% and further allowing deduction to the extent of 50% for personal expenses, loss of

monthly dependency comes to Rs.7,500/-. After applying the multiplier of 18, loss of dependency is computed to the tune of **Rs.16,20,000/-** (Rs.7,500/- x 12 x18).

The appellant shall be entitled to an amount of **Rs.50,000/-** for loss of love and affection of her son, an amount of **Rs.25,000/- each** for loss of estate and funeral expenses. In this manner, total amount of compensation payable to the appellant comes to **Rs.17,20,000/-**. The enhanced compensation is calculated at **Rs.12,19,000/-** (Rs.17,20,000/- – Rs.5,01,000/-). The enhanced compensation shall carry interest @ 7.5% per annum from the date of filing of the petition till realization and shall be deposited in the shape of FDR in a nationalized bank for a period of three years.

Disposed of accordingly.

03.08.2016
yakub

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No