

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

FAO No.4725 of 2012(O&M)

Date of decision: 7.11.2017

Manjit Kaur

.....Appellant

VERSUS

Harvinder Singh and others

.....Respondents

CORAM: **HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Gourav Goel, Advocate for the appellant.

Mr. Rajan Bhargava, Advocate for
Mr. Vishal Aggarwal, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

The unfortunate mother of deceased Jatinder Singh is in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Rupnagar (in short 'the Tribunal') in regard to death of her only son in a motor vehicular accident that took place on 11.07.2010

The Tribunal awarded compensation of Rs.3,51,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.4,000/-
Deduction for personal expenses	50%
Multiplier	14
Loss of love and affection	Rs.10,000/-
Funeral expenses	Rs.5,000

Counsel for the appellant has submitted that the deceased was a final year student of Engineering in Computer stream in NIIT Delhi, therefore, his income is liable to be assessed accordingly. The Tribunal has not extended benefit of increase in income for future prospects to the extent of 40% in the light of recent judgment of Hon'ble the Apex Court in **SLP (Civil) No.25590 of 2014 titled National Insurance Company Limited Vs. Pranay Sethi and others, decided on 31.10.2017.** Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the other hand, has submitted that the Tribunal has rightly assessed income of the deceased at Rs.4,000/- by relying upon judgment of Hon'ble the Supreme Court **National Insurance Co. Ltd. Vs. Meghji Naran Soratiya and others, 2009(2) RCR (Civil) 558.** Another submission made by counsel is that there is no provision for grant of compensation for loss of love and affection in the latest pronouncement of Hon'ble the Supreme Court in **Pranay Sethi's case** (supra).

I have heard counsel for the parties, perused the paper-book and the records.

The plea of the claimant in the application for compensation is that the deceased was doing Computer Engineering and was a student of final year. The claimant has not placed on record documents with regard to educational qualification of the deceased much less to establish that the deceased was a student of final year in Computer Engineering at NIIT Delhi. Manjit Kaur – claimant in her cross examination has deposed that the deceased was a student in Delhi doing diploma in computers. Counsel for the appellant has fairly conceded that except the documents as an

evidence of certain payments made to NIIT, there is no document in possession of the claimant with regard to educational status of the deceased. Perusal of the documents brought on record would make it evident that the deceased had been making payments to NIIT, Delhi since 2008 but these receipts are not sufficient to establish plea of the claimant that the deceased was even student of diploma in Computer Engineering. However, it becomes an established position of the case that the deceased had been attending to various programs in connection with computer education. Taking into consideration the minimum wage of a skilled worker available at the relevant time coupled with that the deceased was getting education in Computer Operation/Applications etc., in the interest of substantial justice, income of the deceased is assessed at Rs.7,000/- per month. After extending the benefit of increase in income for future prospects to the extent of 40% in the light of enunciation in **Pranay Sethi's case** (supra) and applying a multiplier of 18 on the basis of age of the deceased, loss of dependency comes to Rs.10,58,400/-[Rs.15,12,000/- (Rs.7000 x 12 x 18) + Rs.6,04,800/- (40% future prospects) – Rs.10,58,400/- (50% deduction towards personal expenses)].

Under conventional heads, the claimant shall be entitled to following compensation:-

Expenses on funeral/last rites	Rs.15,000/-
Loss of estate	Rs.15,000/-

In view of the above, total compensation comes to Rs.10,88,400/- and the enhanced compensation is Rs.7,37,400/- (Rs.10,88,400/- - Rs.3,51,000/-). The enhanced compensation shall carry

interest at the rate of 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

NOVEMBER 7, 2017
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no