

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

FAO No.1655 of 2016 (O&M)

Date of decision: 21.11.2017

SUMAN

...Appellant

Versus

JAGPAL AND ORS

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Pravesh Yadav, Advocate
for the appellant.

Ms. Monika Jangra, Advocate for
Ms. Vandana Malhotra, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

The unfortunate mother of Rupesh has sought enhancement of compensation in regard to his death in a motor vehicular accident that took place on 25.01.2014.

The Tribunal assessed income of the deceased at Rs.15,000/- per annum and applied multiplier of 15 to compute loss of dependency to the tune of Rs.2,25,000/- by relying upon judgment of Hon'ble the Supreme Court **Manju Devi Vs. Masafir Paswan, 2005(7) SLT page 257**. In addition, an amount of Rs.1 lakh on account of loss of love and affection and Rs.25,000/- towards funeral expenses has been allowed, making total compensation to Rs.3.5 lakh payable with interest @ 9% per annum from

the date of petition till realization.

Counsel for the appellant has submitted that compensation awarded by the Tribunal for loss of dependency is on lower side and needs enhancement. It is further argued that in Manju Devi's case (supra), accident took place in the year 1998 and the deceased was 13 years of age, whereas in the instant case, accident happened on 25.01.2014 and the child was 17 years old, a student of class 9th. According to counsel, in view of the minimum wage available to an unskilled worker coupled with educational qualification of the deceased, income of the deceased may be assessed and by applying multiplier of 18 in the light of judgment of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77**, adequate compensation for loss of dependency may be assessed.

Counsel representing the insurance company, on the other hand, would urge that as the deceased was a student of 9th class and not gainfully employed, Tribunal has rightly assessed his notional income at Rs.15,000/- per annum. In addition, it is argued that compensation assessed by the Tribunal under conventional heads needs modification in the light of latest judgment of Hon'ble the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. Special Leave Petition (Civil) No. 25590 of 2014, decided on 31.10.2017.**

I have heard counsel for the parties, perused the paper book particularly the award passed by the Motor Accidents Claims Tribunal,

Gurgaon.

There is no dispute that the deceased was 17 years old and student of 9th class when he unfortunately died in the accident. Hon'ble the Supreme Court of India in **Kishan Gopal and another Vs. Lala and others, 2014(1) SCC 244** assessed notional income of the child aged 10 years at Rs.30,000/- per annum and awarded total compensation to the tune of Rs.5 lakh including Rs.50,000/- under conventional heads. In the case at hand, the child was 17 years old and a student of class 9th. In the light of Sarla Verma's case (supra), admissible multiplier would be 18 and not 15. Taking into consideration the minimum wage available in the State of Haryana at the relevant time coupled with educational qualification of the deceased, income of the deceased is assessed at Rs.5500/- per month. As the application for compensation has been filed by the mother with regard to death of an unmarried son, deduction for personal expenses would be 50%. After applying multiplier of 18, loss of dependency comes to Rs.5500 x 12 x 18 – 50% = Rs.5,94,000/-.

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

1.	Expenses on funeral/last rites	Rs.15,000/-
2.	Loss of estate	Rs.15,000/-
	Total	Rs.30,000/-

The total compensation comes to Rs.6,24,000/- and the additional amount is Rs.2,74,000/- (6,24,000 – 3,50,000). The additional

amount shall carry interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

21.11.2017

ashok

(REKHA MITTAL)
JUDGE

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