IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3185 of 2015 (O&M)

Date of Decision: 26.9.2017

United India Insurance Co.Ltd.

..Appellant

Vs.

Sukhvinder Singh and others

..Respondents

FAO No.5499 of 2015 (O&M)

Smt.Neelam and another

..Appellant

Vs.

Pawan Kumar and others

..Respondents

FAO No.3188 of 2015 (O&M)

United India Insurance Co.Ltd.

..Appellant

Vs.

Neelam and others

..Respondents

A N D

FAO No.5500 of 2015 (O&M)

Sukhvinder Singh and others

..Appellants

Vs.

Pawan Kumar and others

..Respondents

CORAM: HON'BLE MRS.JUSTICE REKHA MITTAL

Present: Mr.Suvir Dewan, Advocate
for the appellant in FAO Nos.3185 and 3188 of 2015.
for respondent No.3 in FAO Nos.5499 and 5500 of 2015.

Mr.Pankaj Midha, Advocate
for appellants in FAO Nos.5499 and 5500 of 2015.
for respondents No.1 to 3 in FAO No.3185 of 2015.
for respondents No.1 and 2 in FAO No.3188 of 2015.

Mr.Naveen Dahiya, Advocate for
Mr.Shailender Mohan, Advocate for
respondents No.4 and 5 in FAO No.3185 of 2015
respondents No.3 and 4 in FAO No.3188 of 2015.
respondents No.1 and 2 in FAO Nos.5499 and 5500 of 2015.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.3185, 3188, 5499 and 5500 of 2015 as these have emerged out of common award dated 13.2.2015 passed by the Motor Accidents Claims Tribunal, Jind whereby compensation has been awarded on account of death of Puneet @ Nonu son of Satpal and Rajbir @ Ladi son of Sukhvinder Singh in a motor vehicular accident that took place on 25.11.2003.

FAO No.3185 of 2015 has been filed by the Insurance Company to assail the compensation awarded in regard to death of Rajbir @ Ladi whereas FAO No.5500 of 2015 has been filed by Sukhvinder Singh and others claiming enhancement of compensation in regard to death of Rajbir @ Ladi.

FAO No.3188 of 2015 has been filed by the Insurance Company in regard to death of Puneet @ Nonu and FAO No.5499 of 2015 has been filed by Smt.Neelam and another (claimants) seeking enhancement of compensation qua death of Puneet @ Nonu.

<u>FAO Nos.3185 and 5500 of 2015</u>

The Tribunal awarded compensation to the tune of Rs.9,21,436/- detailed hereunder.

Monthly Income	*Rs.5212/-*
Addition of 50% towards future prospects	Rs.2606/-
Deduction 50% towards personal expenses	Rs.3909/-
Multiplier	17
Loss of dependency	Rs.7,97,436/- (Rs.46,908x17)
Expenses on last rites	Rs.24,000/-
Loss of Estate	Rs.One lac

Counsel representing the Insurance Company has assailed computation of compensation on the sole ground that the Tribunal has applied multiplier of 17 on the basis of age of the deceased in place of appropriate multiplier in view of age of parents of the deceased.

Counsel for the claimants, on the other hand, has pressed for enhancement of compensation by making two fold submissions. It is argued that the Tribunal has assessed income of the deceased at Rs.5212/- but Sandeep Sharma, Manager, Human Resources of M/s TDS Management Consultant Pvt.Ltd. PW7 has stated in his examination-in-chief that for the month of November 2013, father of deceased Rajbir was paid salary @ Rs.290/- per day. Another submission made by counsel is that compensation under conventional heads needs enhancement.

Sandeep Sharma, PW7 appeared in the witness box to prove that Rajbir (since deceased) was working as a helper for Supervision in Vita Milk Plant, Jind since January 2013. He brought on record the documents Ex.P38 to Ex.P40. As per the salary statement Ex.P39, total emoluments of the deceased were Rs.5212/- and the deceased worked for 16.5 days on the basis whereof, salary paid to him was Rs.3308/-. Out of this amount, a sum of Rs.450/- was deducted towards PF and ESI and net amount paid was Rs.2853/-. Though the witness has deposed that in the month of November 2013, wage @ Rs.290/- per day was paid to father of the deceased but the statement to this effect does not find corroboration from any documentary evidence. Under the circumstances, Tribunal has rightly relied upon the document Ex.P39 to assess income of the deceased for loss of dependency. In this view of the matter, no addition in the income is justified.

The Tribunal has applied cut of 50% for personal and living expenses of the deceased and adopted multiplier of 17 and extended benefit of future prospects to the extent of 50%. There is no dispute with regard to deduction for personal and living expenses of the deceased.

Counsel for the Insurance Company has raised an issue with regard to multiplier adopted by the Tribunal. However, in the light of enunciation laid down by Hon'ble the Supreme Court in **Sarla Verma an**d **others Vs. Delhi Transport Corporation and another 2009(3) RCR (Civil) 77** and **Munna Lal Jain Vs.Vipin Kumar Sharma, 2015(3) Recent Apex Judgments 459,** multiplier adopted by the Tribunal cannot be faulted with. As such, no intervention in assessment qua loss of dependency by the Tribunal is justified.

Under conventional heads, the Tribunal has awarded Rs.24,000/- towards expenses on last rites and Rs.One lac for loss of estate. Amount of Rs.One lac for loss of estate would also include loss of love and affection. The claimants' plea for enhancement of compensation under conventional heads, is not meritorious and accordingly rejected.

For the foregoing reasons, the appeals are dismissed.

FAO Nos.3188 and 5499 of 2015

The Tribunal has granted compensation of Rs.14,20,000/- in regard to death of Puneet @ Nonu, detailed hereunder:

Loss of monthly income	*Rs.12,000/-*
Deduction	50.00%
Multiplier	18
Loss of dependency	Rs.12,96,000(Rs.6,000x12x18)
Expenses on last rites	Rs.24,000/-
Loss of Estate	Rs.One lac

Counsel for the claimants has submitted that income of the deceased assessed by the Tribunal is on lower side and needs to be enhanced. The deceased was a brilliant student of final year of Mechanical Engineering in Jind Institute of Engineering and Technology. The elder brother of the deceased was an ex student of the aforesaid Institution and at present, he is working with Honda Cars India Limited, Tapukara (Rajasthan). Neeraj Madan, brother of the deceased appeared in the witness box to prove his income on the basis of his educational qualification attained from the Jind Institute of Engineering and Technology, Jind. According to counsel, if income of the deceased is not to be assessed on the basis of salary being drawn by Neeraj Madan PW2, his income is liable to be assessed atleast 50% thereof with addition towards future prospects. In support of his contention, he has referred to judgments of Hon'ble the Supreme Court **Arvind Kumar Mishra Vs. New India Assurance Company Ltd. and another 2010(4) RCR (Civil) 917**, **Radhakrishna and another Vs. Gokul and others 2014(1) RCR (Civil) 1, Ashvinbhai Jayantilal Modi Vs. Ramkaran Ramchandra Sharma and another 2014**

(4) RCR(Civil) 543. Further reference has been made to Division Bench judgment of the High Court of Judicature at Madras **M.D.Metropolitan Transport Corporation Ltd. Vs. K.Murugesan and another 2015 ACJ 183.** Another submission made by counsel is that Tribunal has not extended benefit of increase in income for future prospects to the extent of 50%. Compensation awarded under conventional heads needs enhancement.

Counsel representing the Insurance Company, on the contrary, would urge that the Tribunal has adopted multiplier of 18 on the basis of age of the deceased in place of an appropriate multiplier in view of age of parents of the deceased.

There is no dispute that the deceased was a student of final year in Mechanical Engineering in the aforesaid Institute at Jind. The Tribunal has assessed his income at Rs.12,000/- p.m. with the observations that he was a meritorious student and on completion of Bachelor of Mechanical Engineering and Technology it can be reasonably assumed that he would have got a good job and also had a chance of promotion and remote chance of high position.

Counsel for the claimants has relied upon judgments of Hon'ble the Supreme Court to press his claim for enhancement of income of the deceased. In **Arvind Kumar Mishra's case (supra),** the injured victim was a student of final year at Birla Institute of Technology, Mesra (BIT). He suffered disability to the extent of 70%. The Supreme Court computed his earnings at Rs.60,000/- per annum payable to Assistant Engineer in public employment and assessed compensation to the extent of 70% permanent disability by applying multiplier. In **Radhakrishna and another's case**

(supra), the deceased was engineering student and the Court by taking into consideration the judgment in **Arvind Kumar Mishra's case (supra)** assessed his income at Rs.42,000/- per annum. In **Ashvinbhai Jayantilal Modi's case (supra),** the deceased was a student of medicine and the Court assessed his income at Rs.25,000/- p.m.

There cannot be any dispute that every case for grant of compensation is to be examined on the basis of facts and circumstances obtaining in the case. In the case at hand, the deceased was a student of Jind Institute of Engineering and Technology. There is nothing on record suggestive of the fact that the said Institute is a prestigious Institute in the field of providing education in Engineering and Technology. A perusal of various detailed marks cards of the deceased, exhibited on record, would make it evident that the deceased had failed in certain papers in each semester, sufficient to say that he was not a meritorious student. At the same time, there is nothing on record suggestive of the fact that the deceased was ever detained or was not promoted to the next semester. In the given scenario, contention of the claimants for increase in income of the deceased is not meritorious. However, the claimants shall be entitled to benefit of additional income for future prospects to the extent of 50%.

The deduction for personal and living expenses of the deceased by the Tribunal is affirmed. Plea of the Insurance Company that the Tribunal has wrongly applied multiplier of 18 on the basis of age of the deceased in place of appropriate multiplier in view of age of parents of the deceased is not tenable in the light of enunciation laid down in **Sarla Verma and others' case (supra) and Munna Lal Jain's case (supra).** In this manner, loss of dependency comes to Rs.19,44,000/- (Rs.9000x12x18). The Tribunal has awarded an amount of Rs.1,24,000/- under conventional heads. Amount of Rs.One lac for loss of estate would also include loss of love and affection. The claimants' plea for enhancement of compensation under conventional heads is not meritorious and accordingly rejected.

The total compensation comes to Rs.20,68,000/- and the additional amount of Rs.6,48,000/- shall carry interest @ 7.5% per annum from the date of petition till realisation.

The appeals are disposed of in the abovesaid terms.

(Rekha Mittal)
Judge

26.9.2017
Meenu

Whether speaking/reasoned - Yes/No
Whether Reportable - Yes/No