

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

FAO No.1002 of 2017 (O & M)

Date of Decision:-16.02.2017

National Insurance Company

...Appellant

Versus

Smt. Ram Rati and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Suman Jain, Advocate
for the appellant-Insurance company.

HARI PAL VERMA J.(Oral)

The appellant-insurance company has filed the present appeal against the award dated 17.11.2016 passed by the Motor Accident Claims Tribunal, Jind whereby on the claim petition filed under Section 166 of the Motor Vehicle Act, 1988, the respondents-claimants Ram Ratti and Kulbir were held entitled for compensation of Rs.20,20,000/- for the death of her son Raghvinder Singh, who was 17 years of age and was student of computer engineering (diploma) in Chhotu Ram Polytechnic, Rohtak.

It is the case of the claimants that on 29.1.2015 at about 6.30/7.00 p.m. deceased Raghvinder Singh started his journey on his motor-cycle bearing Registration No.HR-31E-6395, which was driven by respondent No.1-Pardeep. They started their journey from Patiala Chowk towards his home i.e. in Urban Estate, Jind. When they reached in front of

Swarg Ashram (cremation ground), situated near canal, then the driver of other motor-cycle came from other side of the divider of the road in rash and negligent manner. While he was turning the motor-cycle from the cut of divider, at that time, respondent No.1-Pardeep due to rash and negligent driving, could not control his motor-cycle and in this manner, the motor-cycle bearing Registration No.HR-31E-6395 struck into the left side of the footpath. As a result of the accident, respondent No.1-Pardeep fell towards front of the motor-cycle, whereas head of the deceased Raghvinder struck against the left side standing electric pole and he received serious and grievous injuries on his head and forehead. His left arm was also fractured in the accident and he lost his consciousness. He was taken to the General Hospital, Jind by passerby Sumit son of Maha Singh and one nearby shop-keeper namely Vikas Kapoor, who witnessed the accident. The FIR No.87 dated 10.2.2015 was registered with regard to the aforesaid accident in Police Station City, Jind. The learned Tribunal has allowed the claim petition and awarded the compensation observed as under :-

“20. Raghvinder died in this accident. At the time of assessing compensation, the Tribunal has to see income and the age of deceased. It has been pleaded that Raghvinder was 17 years of age at the time of his death and he was a brilliant student of first year Computer Engineering in Chhotu Ram Polytechnic, Rohtak and would have become a good engineer in near future and would have earned much more than Rs.1,00,000/- per month and his future was very bright, thus his income cannot be assessed less than Rs.1,00,000/-per month for future years. But there is no conclusive proof showing

his income to be Rs.1,00,000/- per month or more. However, it cannot be lost out of sight that he was a student of first year in Computer Engineering and the record reveals that he was a meritorious student and on completion of Bachelor of Computer Engineering from the prestigious institute, it can be reasonably assumed that he would have got a good job and he would also have a chance of some promotion and remote chance of some high position. But uncertainties of life cannot be ignored taking relevant factors into consideration. In these circumstances, the national income of the deceased is assessed at Rs.10,000/- per month and as such his annual income comes to Rs.1,20,000/-. The deceased was unmarried. The petitioners are mother and father of deceased who are two in number, hence $\frac{1}{2}$ of the earnings of the deceased are to be deducted towards personal expenses and remaining $\frac{1}{2}$ share shall be considered as loss of dependency to the petitioners. So, after deducting $\frac{1}{2}$ as his personal expenses, his contribution towards his family comes to Rs.60,000/- per annum. The secondary school examination certificate Ex.P5 reveals that the date of birth of deceased Raghvinder is 01.09.1997 whereas the accident in question took place on 29.1.2015. Thus, the deceased was 17 years of age at the time of his death. So, just and reasonable multiplier in this case is '18' and amount of compensation comes to be Rs.60,000/- x 18=Rs.10,80,000/-. The petitioners would also be entitled to Rs.16,000/- towards performance of last rites and a sum of Rs.1,00,000/- towards loss of estate besides Rs.1,00,000/- for love and affection. The petitioners also spent amount on treatment as so mentioned in treatment

bills Ex.P2 to save life of deceased Raghvinder and the sum total of these bills are Rs.7,23,805/- and the same also stands duly proved on record by the statement of PW4 Alic Masih, Junior Medical Record Officer, which is rounded off as Rs.7,24,000/-. The petitioners would also be entitled to this amount spent on the treatment of deceased. In this manner, the petitioners would be entitled to total compensation of (Rs.10,80,000/- + 1,00,000/- + 1,00,000/- + 7,24,000/- + 16,000/-) = Rs.20,20,000/-.”

Learned counsel for the appellant has argued that deceased Raghvinder Singh was merely a student, therefore, his notional income has wrongly been assessed. He further states that the learned Tribunal was required to consider the age of dependents, not of the deceased while applying the multiplier and Rs.1,00,000/- towards loss of estate has also wrongly been awarded, which is otherwise on higher side.

I have heard learned counsel for the appellant.

There is no dispute that the deceased was a student and was about 17 years of age at the time of accident. He was stated to be a brilliant student pursuing his computer engineering (diploma) from Chhotu Ram Polytechnic, Rohtak. Therefore, this fact cannot be ignored that taking into consideration the nature of qualification, he would have possessed and the institution where he was pursuing the course, the notional income assessed by the Tribunal Rs.10,000/- per month is certainly not on higher side. So far as the compensation awarded for different other heads i.e. performance of last rites, loss of estate, love and affection as well as medical expenses

are concerned, there is no illegality. Therefore, this Court does not find any illegality in the award passed by the learned Motor Accident Claims Tribunal, Jind.

Hence, the present appeal is dismissed.

February 16, 2017
Vijay Asija

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No