

FAO-2335-2003 (O&M)

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

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**FAO-2335-2003 (O&M)
Date of Decision : 5.9.2018**

Mohinder Kaur

....Appellant

vs.

Brij Lal Arora and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Arun Bansal, Advocate
for the appellant.

Mr. Sandeep Kotla, Advocate
for the respondent No.3.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the award dated 19.4.2003 passed by Motor Accident Claims Tribunal, Hoshiarpur awarding compensation of Rs. 2,23,000/- alongwith interest at the rate of 9% per annum on account of death of Karan Pal Singh in an accident.

Brief facts of the case are that on 28.5.2000, the deceased- Karan Pal Singh alongwith one Parveen Sharma as pillion rider were going on motorcycle towards the Institute of Technology and Management, Mathura. When they reached at the turning of Ajahi, at about 10:30 a.m and were waiting in the gap of the road towards college, the offending truck driven by respondent No.2 coming from Delhi side at a fast speed hit the motorcyclists. Due to accident the motorcyclists got injured and motorcycle was also damaged. The injured were taken to Maheshwari Hospital and

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later Karan Pal Singh was referred to hospital in Agra where he succumbed to his injuries. Claim petition was filed by the appellant and ordered the compensation as mentioned above.

Learned counsel for the appellant has stated that this Court has decided the matter titled ***National Insurance Company Ltd. vs. Smt. Usha Devi and others*** in FAO-3942-2014 on 18.8.2018. In that case after considering the judgment of ***Arvind Kumar Mishra vs. New India Assurance Co. Ltd. and another 2011 (1) PLR 740 (SC)*** this Court had taken notional income of engineering student as Rs. 7,500/- per month. In the case of Arvind Kumar (supra) the accident was of the year 1993 and the subsequent case of Usha Devi (supra) the year of the accident was 2010. He has prayed that the notional income in the present case should also be taken as Rs. 7,500/- per month.

Counsel for the insurance company has pointed out that in the present case the accident is of the year 2000 and therefore, Rs. 7,500/- per month cannot be taken as notional income. I find merit in the arguments of both the learned counsel. Consequently, take the notional income as Rs. 6,000/- per month.

Second argument raised by the learned counsel for the appellant is that in view of the judgment of the Supreme Court in the matter of ***Sarla Verma and others v. Delhi Transport Corporation and another, 2009 ACJ 1298***, the multiplier of 18 has to be applied as the deceased was 22 years old. Learned counsel for the insurance company is not in a position to deny this also. Consequently, it is held that multiplier of 18 has to be applied.

Third argument raised by the learned counsel for the appellant

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is that under the conventional heads Rs. 7,500/- has been awarded which is highly inadequate and consequently, I award Rs. 22,500/- more on this account. Since income was notional there would no future prospect and no deduction.

Counsel for the insurance company however has pointed out that interest at the rate of 9% awarded by the Tribunal is highly excessive in today's regime. I find this to be correct. Therefore, I award 7.5% rate of interest on the enhanced amount from the date of filing of the claim petition till the date of realization. The entire enhanced amount be handed over to the appellant.

Counsel for the appellant has further argued that on account of the damage to the motorcycle less amount has been awarded. I find that the Tribunal has rightly taken the depreciated value of the motorcycle, which has been fixed as Rs.20,000/-; the fact that a sum of Rs. 2,000/- has been received from the salvage and Rs. 18,000/- has been awarded, there is no scope for enhancement on this score.

The appeal stands disposed of with the abovesaid modifications.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

5.9.2018.
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Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No