IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

101 **FAO-5068-2014 (O&M)**

Date of Decision:12.03.2018

Dr. Rajni Gupta and another .....Appellants

Versus

Satbir Sharma and others .....Respondents

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

Present: Mr. Vikram Bali, Advocate, for the appellants.

Mr. Rajbir Singh, Advocate for Mr. Sanjiv Goyal, Advocate, for respondent No.3-Insurance Company.

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HARI PAL VERMA, J.(Oral)

Appellants-claimants have filed the present appeal seeking enhancement of compensation over and above the amount awarded by the learned Motor Accident Claims Tribunal, Chandigarh (for short “the Tribunal”) vide award dated 28.02.2014.

As per claim-petition on 17.01.2011, when Pratul Gupta (since deceased) was travelling in a car bearing registration No.HR01-AA-0948 from village Shahzadpur to Medical College, Hisar via Pehowa and Kaithal along with Amit Kumar and at about 9.00 am, when they reached near village Gumthala on Pehowa to Kaithal road, suddenly the offending truck bearing registration No.MH-4DS-4066 came from the opposite side being driven at a very high speed, in a rash and negligent manner. It (the offending truck) hit the car head on. The driver of the offending truck fled away from the spot after causing the accident. Since the deceased suffered grievous injuries, he was taken to PGI, Chandigarh where he succumbed to his injuries.

The appellants, who are the unfortunate parents of deceased-Pratul Gupta, who died in a motor vehicular accident, which took place on 17.01.2011, filed a claim-petition under Section 166 of the Motor Vehicles Act, 1988. Considering the age of the deceased as 17 years, the Tribunal has awarded a total compensation of ₹11,40,000/- along with interest @ 7.5% per annum from the date of filing the claim-petition till its realization.

Not satisfied with the aforesaid quantum of compensation, the claimants have filed the present appeal seeking enhancement of compensation.

The accident and liability are not in dispute. What is in dispute is the quantum of compensation awardable to the claimants.

Learned counsel for the appellants has argued that deceased-Pratul Gupta, was about 17 years of age (his date of birth being 23.12.1993) on the date of accident, which took place on 17.01.2011. The Tribunal has assessed the income of the deceased as ₹10,000/- per month and applied multiplier 18. In addition thereto, the Tribunal awarded ₹5,000/- on account of loss of estate, ₹50,000/- towards loss of love and affection and another sum of ₹5,000/- towards funeral expenses. He has further argued that deceased-Pratul Gupta being a brilliant student was admitted in the MBBS course and being from a family of doctors, his future was quite bright and secure. Therefore, the Tribunal has awarded less compensation on account of death of Pratul Gupta.

Learned counsel for the appellants has relied upon the judgment passed by the Hon'ble Apex Court in case **Ashvinbhai Jayantilal Modi Versus Ramkaran Ramchandra Sharma and another, 2014(4)**

R.C.R. (Civil) 543, where a 19 year old student who was pursing degree in medicine died in a fatal motor accident, the Hon'ble Apex Court assessed the future income of the deceased as ₹25,000/- per month. He has also placed reliance on the judgment passed by this Court in FAO No.1502 of 2015, titled as **National Insurance Company Limited Versus Pushpa Singh Chauhan and others,** decided on 20.03.2015, wherein while relying upon the judgment passed by this Court in FAO No.429 of 2013, titled as **United India Insurance Company Limited Versus Seema and others,** decided on 19.03.2015, this Court has held that in case of a bachelor, multiplier, as per age of the deceased has to be applied.

On the other hand, learned counsel for respondent No.3-Insurance Company has relied upon the judgments of Hon'ble the Apex Court in **Radhakrishna and another Versus Gokul and others, 2014(1) R.C.R. (Civil) 1** and **Shri Nagar Mal and others Versus Oriental Insurance Company Limited and others, 2018 AIR (SC) 568.** While relying upon the judgment in **Radhakrishna's case(supra),** learned counsel has argued that in this case, the deceased was 19 years and was an engineering student and the parents of the deceased were aged 45 and 42 years and the Hon'ble Apex Court granted a lump sum compensation of ₹7 lacs to the claimants along with interest @ 6% per annum. He has argued that since the deceased was not having a fixed income, the Hon'ble Apex Court had granted a lump sum compensation. Therefore, the appellants are not entitled to future prospects as the deceased did not have a fixed income. Similarly, while referring the judgment passed in **Shri Nagar Mal's case (supra)**, learned counsel has argued that in this case, the deceased was pursuing a professional Chartered Accountancy course and the Tribunal assessed his income as ₹6,000/- per month. As the deceased was a bachelor, therefore, out of this amount, a sum of ₹3,000/- per month was deducted towards the personal expenses. The Tribunal has applied multiplier 11, viz-a-viz age of parents of the deceased. Therefore, the Tribunal has already awarded adequate compensation to the claimants and there is no scope for further enhancement.

I have heard the learned counsel for the parties.

There is no dispute that deceased-Pratul Gupta was enrolled in an MBBS course. He was pursuing the said course from Maharaja Agrasen Medical College, Agroha (Hisar). He was 17 years of age at the time of death. The appellants, who are parents of the deceased, also happen to be doctors by profession. In the case of **Ashvinbhai Jayantilal Modi (supra)**, the deceased was about 19 years of age and was also a medical student. In that case, the Tribunal assessed the future income of the deceased as ₹18,000/- per month, 1/3rd of the monthly income was deducted towards the personal expenses and after applying multiplier 16, loss of dependency was assessed as ₹23,04,000/-. Compensation under other heads including loss of love and affection and funeral expenses etc. were also granted. Not satisfied with the award, the claimants preferred an appeal before the Hon'ble Supreme Court. The Hon'ble Apex Court enhanced the compensation after assessing the future income of the deceased as ₹25,000/- per month. The relevant paragraph of the judgment reads as under:-

> *"We have heard the learned counsel for the parties. In our considered view, the deceased was 19 years old and was pursuing his medical degree with good marks at the time of the accident. With respect to the future income of students pursuing professional courses we refer to Arvind Kumar*

Mishra v. New India Assurance Co. Ltd. and Anr. 2010(4) R.C.R. (Civil) 917 : 2010(6) Recent Apex Judgments (R.A.J.) 276 : (2010) 10 SCC 254, wherein this Court held as under:-

> *"14. On completion of Bachelor of Engineering (Mechanical) from the prestigious institute like B.I.T., it can be reasonably assumed that he would have got a good job. The appellant has stated in his evidence that in the campus interview he was selected by Tata as well as Reliance Industries and was offered pay package of Rs. 3,50,000/- per annum. Even if that is not accepted for want of any evidence in support thereof, there would not have been any difficulty for him in getting some decent job in the private sector. Had he decided to join government service and got selected, he would have been put in the pay scale for Assistant Engineer and would have at least earned Rs. 60,000/- per annum. Wherever he joined, he had a fair chance of some promotion and remote chance of some high position. But uncertainties of life cannot be ignored taking relevant factors into consideration. In our opinion, it is fair and reasonable to assess his future earnings at Rs.60,000/- per annum taking the salary and allowances payable to an Assistant Engineer in public employment as the basis...."*

The Tribunal and the High Court have not taken into proper consideration that the deceased was a student of medicine at the time of the accident while determining his future income. The courts below have wrongly ascertained the future income of the deceased at only Rs.18,000/- per month, which in our view is too less for a medical graduate these days. Therefore, the courts below have failed in following the principles laid down by this Court in this aspect in the above case. The deceased was *a diligent and outstanding student of medicine who could have pursued his M.D. after his graduation and reached greater heights. Today, medical practice is one of the most sought after and rewarding professions. With the tremendous increase in demand for medical professionals, their salaries are also on the rise. Therefore, we have no doubt in ascertaining the future income of the deceased at Rs.25,000/- p.m. i.e. Rs.3,00,000/- p.a. Further, deducting 1/3rd of the annual income towards personal expenses as per Oriental Insurance Co. Ltd. v. Deo Patodi and Ors, 2010(1) R.C.R. (Civil) 93 : 2009(6) Recent Apex Judgments (R.A.J.) 689 : (2009) 13 SCC 123, and applying the appropriate multiplier of 13, keeping in mind the age of the parent of the deceased, as per the guidelines laid down in Sarla Verma case (supra), we arrive at a total loss of dependency at Rs.26,00,000/- [(Rs.3,00,000/- minus 1/3 X Rs.3,00,000/-)X 13].”*

Thus, while relying on the judgment passed by the Hon'ble Apex Court in **Ashvinbhai Jayantilal Modi (supra)**, this Court finds that income of the deceased should be assessed as ₹20,000/- per month. There is no dispute so far as the applicability of multiplier 18 is concerned. As the deceased was 17 years of age and as held by the Hon'ble Apex Court in case **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, 2009(6) SCC 121,** multiplier 18 was required to be applied. The claimants are also held entitled to compensation for an amount of ₹30,000/- under the conventional heads i.e. on account of loss of estate and funeral expenses, in view of the law laid down by the Hon'ble Supreme Court in case **National Insurance Company Limited Versus Pranay Sethi and others, 2017 (4) R.C.R (Civil) 1009**.

Accordingly, this Court finds that the claimants are held entitled to compensation in the following manner:-

Monthly income	:	₹20,000/-
Annual income	:	₹2,40,000/-
Income tax	:	₹8,240/-
Annual income (after tax deduction)	:	₹2,31,760/-
Deductions (50%)	:	₹1,15,880/-
Total loss of dependency (₹1,15,880 x 18)	:	₹20,85,840/-
Loss of estate	:	₹15,000/-
Funeral expenses	:	₹15,000/-
Total amount of compensation	:	₹21,15,840/-
Amount already awarded	:	₹11,40,000/-
Enhanced amount	:	₹9,75,840/-

The enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing the claim-petition till its realization.

With the aforesaid modification in the award, the present appeal stands disposed of.

March 12, 2018 **(HARI PAL VERMA)**
seema **JUDGE**

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No