

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

**FAO No.4030 of 2015 (O&M)  
Date of decision: 13.03.2018**

The Oriental Insurance Company Limited

....Appellant

Versus

Smt. Harjeet Kaur and others

....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Ram Avtar, Advocate,  
for the appellant.

Mr. Ashwani Arora, Advocate,  
for respondent Nos.1 and 2 (claimants).

**RITU BAHRI J. (Oral)**

The Oriental Insurance Company Limited-appellant has come up in appeal against the awarded dated 05.02.2015 passed by the Motor Accident Claims Tribunal, Mohali (hereinafter referred to as 'the Tribunal'), whereby compensation of Rs.16,70,000/- has been awarded in favour of claimants-respondent Nos. 1 and 2 on account of death of Manpreet Kaur in a motor vehicular accident which took place on 07.11.2013. Respondent Nos. 1 & 2 are parents of deceased Manpreet Kaur.

Brief facts of the case are that on 07.11.2013, at about 10.30 A.M., Manpreet Kaur along with Kuldeep Singh-respondent No.3 (respondent No.1 in claim petition) was going from Dera Bassi to Zirakpur on a motorcycle bearing registration No.PB-70-B-4654. The said motorcycle was being driven by Kuldeep Singh. They were being followed

by Rajesh Kumar on a separate motorcycle. When they reached on the bridge of river Ghagar, Kuldeep Singh lost control over the motorcycle due to its high speed and it struck against right side railing of Ghagar bridge, as a result of which, both Manpreet Kaur and Kuldeep Singh suffered injuries. They were taken to GMCH, Sector 32, Chandigarh, where Manpreet Kaur was declared brought dead. With regard to the accident, FIR No.230 dated 07.11.2013, under Sections 279/304-A IPC was registered against driver of the motorcycle namely Kuldeep Singh. Consequently, the claimants (respondent Nos. 1 & 2 herein) filed a claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident in question had taken place due to rash and negligent driving of the offending vehicle i.e. motorcycle by respondent No.1 (respondent No.3 herein) and thus, returned the finding on issue No.1 in favour of the claimants-respondent Nos. 1 and 2. This finding was rightly given on the basis of deposition of Rjesh Kumar (PW-2), who was eye witness of the accident and on whose statement, FIR Ex.P11 was registered. The claimants have also proved on record postmortem report of the deceased as Ex.P1.

Since, the deceased was 15 year old school going girl, her notional income was assessed at Rs.10,000/- per month i.e. Rs.1,20,000/- per annum. Out of this income, 50% was deducted towards personal expenses of the deceased. Dependency of the claimants came to Rs.60,000/- per annum. As she was 15 years of age at the time of death/accident, multiplier of 18 was applied. After applying the multiplier of 18, amount of compensation came to be Rs.10,80,000/-. In this amount, 50% addition was made on account of future prospects, which came to

Rs.16,20,000/-. Apart from this, Rs.25,000/- were awarded as funeral expenses and Rs.25,000/- on account of loss of estate. Ultimately, the claim petition was accepted and a sum of Rs.16,70,000/- was awarded as compensation in favour of the claimants along with interest at the rate of 9% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the appellant-Insurance Company has preferred the present appeal.

Learned counsel for the appellant has referred to the judgment passed by Hon'ble the Supreme Court in **"Shri Nagar Mal and others vs. The Oriental Insurance Company Ltd. and others,"** Civil Appeal No.448 of 2018 (arising out of SLP (C) No.26853 of 2016) decided on 19.01.2018, whereby in a case of accident, which took place on 15.11.2008, income of deceased, who was aged about 20 years, had been taken as Rs.6000/- per month. By giving him the benefit of judgment delivered by the Larger Bench in **National Insurance Company Limited Vs. Pranay Sethi and others,** Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017), benefit of 40% towards future prospects has been given.

I have heard learned counsel for the appellant and perused the case file.

A perusal of the judgment passed by Hon'ble the Supreme Court in **Shri Nagar Mal's** case (supra) shows that accident, in that case, had taken place in the year 2008 and minimum wages in the year 2008 were Rs.3200/- per month. Income had been taken as Rs.6000/- per month i.e. almost double the minimum wages prevalent in the State of Punjab.

In the facts of the present case, deceased-Manpreet Kaur was 15 years of age at the time of accident/death. Her notional income has been

taken as Rs.10,000/-. The accident has taken place in the year 2013 and minimum wages in the Punjab in the year 2013, were Rs.5695/- per month. Hence, the income has been rightly taken by the Tribunal as Rs.10,000/- per month, for assessment of compensation. The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments passed by Hon'ble the Supreme Court in **Sarla Verma and others vs. Delhi Transport Corporation and another**, 2009 (3) RCR (Civil)

Page 77 and **Pranay Sethi's** case (supra) as under:-

| Sr. No. | HEADS                                                              | CALCULATIONS                         |
|---------|--------------------------------------------------------------------|--------------------------------------|
| (i)     | Income                                                             | Rs.10,000/- per month                |
| (ii)    | 40% of (i) above to be added as future prospects                   | 10,000 + 4000 = Rs.14,000/-          |
| (iii)   | 50% of (ii) above is deducted as personal expenses of the deceased | 14,000 – 7000 = Rs.7000/-            |
| (iv)    | Compensation after multiplier of 15 is applied                     | Rs.7000/- x 12 x 15 = Rs.12,60,000/- |
| (v)     | Compensation under the conventional heads                          | Rs.30,000/-                          |
| (vi)    | <b>TOTAL COMPENSATION AWARDED</b>                                  | <b>Rs.12,90,000/-</b>                |

The total amount of compensation of **Rs.12,90,000/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in the case of **Shri Nagar Mal's** case (supra). Remaining conditions of disbursal shall remain the same.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

**(RITU BAHRI)**  
**JUDGE**

13.03.2018  
ajp

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