

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

Date of decision: 12.01.2018

FAO No.5579 of 2015 (O&M)

The New India Assurance Co. Ltd. ...Appellant

Versus

Smt. Gurmeet Kaur and others ...Respondents

FAO No.5888 of 2015 (O&M)

Smt. Gurmeet Kaur and another ...Appellants

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sandeep Suri, Advocate
for the insurance company.

Mr. Vishal Kashyap, AAG, Haryana.

Mr. Ashwani Arora, Advocate
for the claimants.

REKHA MITTAL, J. (Oral)

CM No.17523-CII of 2015 in FAO No.5579 of 2015

Heard.

For the reasons stated in the application supported by an affidavit of Mr. Tarsem Chand, Dy. Manager, New India Assurance Co. Ltd., same is allowed. Delay of 26 days in filing the appeal is condoned.

Main Cases

This order will dispose of FAO Nos.5579 and 5888 of 2015 as these have emerged out of the same award dated 13.03.2015 passed by the Motor Accidents Claims Tribunal, Chandigarh whereby compensation has been awarded on account of death of Jatinder Kaur in a motor vehicular accident that took place on 11.02.2014.

FAO No.5579 of 2015 has been filed by the New India Assurance Co. Ltd. (in short 'the company') whereas FAO No.5888 of 2015 has been filed by the claimants seeking enhancement of compensation.

Counsel for the company has fairly informed that the appeal has been preferred only to assail quantum of compensation assessed by the Tribunal.

The Tribunal has awarded compensation to the tune of Rs.17,45,000/-, detailed hereunder:-

1. Monthly and notional income of deceased	Rs.10,000/-
2. Multiplier	18
3. Deduction for personal expenses	50%
4. Increase in income for future prospects	50%
5. Loss of dependency	Rs.16,20,000/-
6. Transportation, funeral and last rites	Rs.25,000/-
7. Loss of love and affection	Rs.1,00,000/-
(Rs.50,000/- each of the parents)	

Counsel representing the company has submitted that the deceased was a student of B.Tech (4th semester) in Sh. Sukhmani Institute of Engineering and Technology, Dera Bassi. The Tribunal has assessed notional income of the deceased, therefore, claimants are not entitled to

benefit of future prospects. Compensation awarded under conventional heads needs modification in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270.**

Counsel representing the claimants, on the contrary, has submitted that this Court in **National Insurance Co. Ltd. Vs. Pushpa Singh Chauhan and others**, FAO No.1502 of 2015, decided on 20.03.2015 affirmed computation of compensation by the Tribunal whereby in regard to death of a student of B.Tech, Mechanical in Chander Mohan Jha University, Shilong (Meghalaya), income was assessed at Rs.10,000/- per month and benefit of future prospects was allowed @ 50%. Further argued that the judgment passed by this Court became subject matter of challenge before Hon'ble the Supreme Court in Special Leave Petition (C) S. No.19533 of 2015. Hon'ble the Apex Court dismissed the appeal with the findings that no legal and valid ground for interference is made out. It is further argued that the present case is squarely covered by the judgment in **Pushpa Singh Chauhan's case** (supra).

I have heard counsel for the parties, perused the paper book and the judgments cited at bar.

Indisputably, deceased was a student of B.Tech (4th semester) in Sh. Sukhmani Institute of Engineering and Technology, Dera Bassi. The Tribunal has noticed that she was a brilliant student. When the case is examined in the light of judgment in **Pushpa Singh Chauhan's case**

(supra), findings recorded by the Tribunal assessing income of the deceased at Rs.10,000/- per month cannot be faulted with. However, claimants shall be entitled to increase in income for future prospects @ 40% as against 50% in the light of judgment in **Pranay Sethi's case** (supra). In this manner, loss of dependency comes to Rs.15,12,000/- (Rs.10,000 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses).

Under conventional heads, claimants shall be entitled to an amount of Rs.15,000/- for expenses on funeral/last rites. In view of the above, total compensation comes to Rs.15,27,000/- and the compensation assessed by the Tribunal is reduced to the extent of Rs.2,18,000/- (17,45,000 – 15,27,000).

The appeal filed by the insurance company is partly allowed in the aforesaid terms. As a natural corollary, appeal filed by the claimants is dismissed.

No order as to costs.

12.01.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No