

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

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FAO No.7740 of 2014 (O&M)
Date of decision: 31.08.2018

VIRENDER AND ANR

... Appellants

Versus

VINOD AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Ms. Ramandeep Kaur, Advocate for
Mr. S.K. Panwar, Advocate
for the appellants.

Ms. Suman Kumari, Advocate for
Mr. B.S. Tewatia, Advocate
for respondents No.1 to 3.

Mr. Punit Jain, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Vikal, aged 21 years in a motor vehicular accident that took place on 03.06.2011.

The Tribunal has awarded compensation of Rs.4,70,800/-,
detailed hereunder:-

1. Monthly income of the deceased	Rs.3600/-
2. Multiplier	16
3. Deduction for personal expenses	1/3 rd
4. Loss of dependency	Rs.4,60,800/-
5. Expenses on transportation and last rites	Rs.10,000/-

The Tribunal in para 20 of the award has noticed to the following effect:-

“In support of his income, the claimants have produced Hall Ticket issued by Naval Dockyard Apprentices School, Visakhapatnam, Andhra Pradesh, letter of his enrollment as apprenticeship for 2010-11/12 Batch as a Computer Operator, certificate of his blood donation, photocopy of his passbook of SBI Branch, Visakhapatnam and his original identity card. Perusal of these documents shows that the deceased had applied for Apprenticeship of Computer Operator with Naval Dockyard Apprentices School, Visakhapatnam and initially was kept in waiting list, but finally, due to some unfilled vacancies, was enrolled as an apprenticeship for the aforesaid trade for the year 2010-11/12 Batch. As per offer letter, no accommodation was provided to him and resultantly, he had to make his own arrangements outside the premises of Naval Dockyard Apprentices School. His pass book shows that he was given only stipend for his apprenticeship at the rate of around Rs.1200/- per month i.e. Rs.40/- per day in which he had to arrange lodging, boarding, besides his food and clothing etc. The above documents also prove that he was not an employee, rather was only a trainee and that too in Apprentices school run by Naval Base, PO Visakhapatnam. There was no guarantee to provide him a job of Computer Operator and thus, the story put forth by the claimants that he after completion of his training, must have got Rs.20,000/- per month, is completely hypothetical and false. Moreso, the claimants have also not produced any document showing his qualification. Hence, it can safely be inferred that he was not a skilled person.”

No doubt, the claimants have not produced any document with

regard to educational qualification of the deceased but on the basis of documents on record, it can safely be held that he was enrolled as trainee for 2010-11/12 batch as a computer operator by Naval Dockyard Apprenticeship School, Visakhapatnam, Andhra Pradesh. The deceased was a resident of Haryana but enrolled for trainee as a computer operator sufficient to indicate that the deceased was possessing some educational qualification on the basis whereof he was enrolled as such. Taking a clue from minimum wage of a skilled person approximately Rs.5000/- at the relevant time along with the aforesaid, interest of justice would be served, if income of the deceased is assessed at Rs.7000/- per month. Claimants shall be entitled to addition in income for future prospects @ 40%. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. However, the admissible multiplier would be 18. In this manner, loss of dependency is calculated at Rs.14,11,200/- [(Rs.7000 x 12 x 18) + (40% future prospects) – (1/3rd deduction for personal expenses)].

Under conventional heads, claimants shall be entitled to Rs.70,000/-, detailed hereunder:-

1. Loss of consortium to widow	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

Total compensation is Rs.14,81,200/- and the additional amount is Rs.10,10,400/- (14,81,200 - 4,70,800), payable with interest @ 7.5% per annum from the date of petition till realization, to mother of the deceased except a sum of Rs.40,000/- towards loss of consortium to widow of the

deceased.

The appeal is partly allowed in the aforesaid terms.

31.08.2018

ashok

(REKHA MITTAL)
JUDGE

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