

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

FAO No.3832 of 2018 (O&M)

Date of Decision: 25.07.2018

United India Insurance Co. Ltd.

... Appellant

Versus

Surender Singh @ Chhinda and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Harsh Aggarwal, Advocate,
for the appellant.

TEJINDER SINGH DHINDSA, J.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 filed by the claimants i.e. the parents of Aman @ Manpreet and who died in a motor vehicle accident on 09.12.2016 has been decided vide award dated 07.03.2018 passed by the Motor Accident Claims Tribunal, Fatehabad and a compensation amount of Rs.7,86,000/- along with interest @ 7.5% per annum from the date of filing of the claim petition up to the date of actual realization was awarded.

The instant appeal has been filed at the hands of the Insurance Company i.e. United India Insurance Company Limited raising a limited issue as regards quantum.

Mr. Harsh Aggarwal, learned counsel representing the appellant Company submits that deceased Aman @ Manpreet was aged 15 years on the date of accident and for quantifying the compensation a notional income has been taken by the Tribunal as Rs.5000/- per month and further increase in income towards future prospects has been taken as 40%.

The sole submission raised by learned counsel is that in the facts of the present case, the deceased was a minor and his notional income had been assessed as he was not in the earning age bracket and under such circumstances, the Tribunal has erred in granting future prospects of income @ 40%.

In the considered view of this Court, the submission advanced by counsel is not well founded. In the present case, the accident had occurred on 09.12.2016. Aman @ Manpreet who died in the accident was aged 15 years. He was a student of 10+2. Even the claimants i.e. parents of the deceased had claimed that besides his study, the deceased was helping his parents in domestic work. The Tribunal has taken a notional income of Rs.5000/- per month i.e. the minimum wages payable to a casual worker at the relevant point of time and has awarded 40% increase in income towards future prospects.

Deceased was a 10+2 student. It goes without saying that on completion of his education he would have taken up some avocation and also explored avenues of employment. For working out a just and reasonable compensation, the Tribunal was obligated to lay a foundation and for which a certain notional income had to be assessed. This was for the reason that deceased was still a student and not in the earning age bracket. The notional income of Rs.5000/- per month has been taken at the bare minimum i.e. the minimum wages that were admissible to a casual worker/unskilled worker as on the date of accident. If the concept of assessing the notional income is accepted, even a further

increase thereupon towards future prospects will have to be taken into reckoning. The Supreme Court of India in the case of **Hem Raj Vs. Oriental Insurance Company Limited and others 2018 (2) PLR 480** has observed that there cannot be any distinction where there is a positive evidence of income and where minimum income is determined on guess work. It was held that both the situations stand on the same footing and addition of income towards future prospects was held to be admissible even in the case of notional income.

In the case of **V. Mekala Vs. M. Malathi and another 2014 (2) RCR (Civil) 880**, the Apex Court awarded 50% increase towards future prospects of income in an injury case and wherein the victim was a student of 11th standard and for whom a notional income had been assessed.

Even otherwise the compensation amount of Rs.7.68 lakhs awarded by the Tribunal in favour of the claimants i.e. parents who lost their 16 year old son cannot be construed as a windfall in their hands.

Keeping in view the dictum laid down in **Hem Raj and V.Melkala's case (supra)**, I find no merit in the instant appeal and the same is, accordingly, dismissed.

25.07.2018

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No