

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

RA-CR No.221-CII of 2018 in
FAO No.5977 of 2015

Date of Decision: November 28 , 2018.

Vinod Kumar and another APPLICANT/APPELLANT (s)

Versus

Malkhan Singh and others RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Manoj Kumar Taya, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent No.3 – Insurance Company.

LISA GILL, J.

Appellants have filed this application for review/
recalling/modification of judgment dated 03.10.2018 passed by this Court in
FAO No.5977 of 2015.

It is submitted that though specifically argued that income of the
deceased is required to be assessed at a higher level and the said argument even
being accepted by the Court, the same is however not reflected in the decision
dated 03.10.2018. Income of the deceased has been mentioned as ₹7,500/- per
month as assessed by the learned Tribunal itself. The deceased, who was
admittedly 18 years at the relevant time, was a student of the First Semester of

Diploma of Education. She was aspiring to be a JBT teacher and after completion of the course, she would have been qualified to be appointed as one. PW4 Shamsher Singh, Lecturer in Savitri Devi Memorial College of Education, Rajound had duly proved the admission record etc. of the deceased. It is submitted that this Court had accepted the income of the deceased to be ₹9,000/- per month but the same does not find mention in the calculations in decision dated 03.10.2018. Various judgments, it is submitted, were referred to by the counsel. It is thus prayed that the necessary modification be carried out accordingly.

Learned counsel for respondent No.3-insurance company contends that there is no justification for the said enhancement in any manner. The deceased was merely a student of the First Semester of the Diploma of Education. Even minimum wages were much lesser than the income assessed by the learned Tribunal. Moreover, this application for review/modification is not maintainable. Therefore, the present application should be dismissed.

Heard learned counsel for the parties.

Perusal of the file reveals that the judgments cited by learned counsel for the applicant/appellants at the time of final hearing of the appeal on 03.10.2018 stand tagged with this file. Reliance has been placed by learned counsel for the applicant/appellants on decision dated 20.03.2015 in FAO No.1502 of 2015, whereby this Court had upheld income of ₹10,000/- per month in the case of a deceased who was a student of B.Tech in an accident which took place in October 2013. Learned counsel for the appellants also relied upon decision dated 29.01.2018 in FAO Nos.510 and 833 of 2015 in respect to an

accident which took place in the year 2012 whereby income of the deceased, a student of Diploma in Engineering as well as in respect to a student of B.Tech, was assessed as ₹10,000/- per month.

Perusal of the file indeed reveals that income of the deceased is wrongly mentioned as ₹7,500/- per month in the calculations reflected in decision dated 03.10.2018. Income of the deceased was assessed as ₹9,000/- per month, but the same does not find mention in the said calculation.

Accordingly decision dated 30.10.2018 is modified to the extent that income of the deceased shall read as ₹9,000/- per month instead of ₹7,500/- per month. The total compensation be thus recalculated on that basis, which is as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	9,000 p.m. i.e. ₹1,08,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	1,08,000 + (1,08,000 x 40%) = 1,51,200
3.	Income after 50% deduction on account of personal expenses	1,51,200 – (1,51,200 x 1/2) = 75,600
4.	Total dependancy after applying a multiplier of 18	(75,600 x 18) = 13,60,800
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of filial consortium at the rate of ₹40,000/- each	(40,000 x 2) = 80,000
8.	Medical expenses	1,25,703
9.	Transportation	1,86,400
10.	Diet expenses	42,000
11.	Attendant charges	28,000
Grand Total		₹18,52,903/-

Compensation awarded to the claimants is thus modified as above.

This order shall form part of judgment dated 03.10.2018.

Review application is accordingly allowed.

November 28 , 2018.
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(LISA GILL)
JUDGE

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