

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

FAO-6783-2019(O&M)

Date of Decision : November 13, 2019

Oriental Insurance Company Limited

.....Appellant

VERSUS

Sajna Devi and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. R.C.Kapoor, Advocate for the appellant.

NIRMALJIT KAUR, J.

CM-23242-CII-2019

For the reasons mentioned in the application, the application is allowed and the delay of 52 days in re-filing of the appeal is condoned.

Main case

The present appeal is filed by the Insurance Company against the award dated 15.5.2019 passed by the Motor Accident Claims Tribunal, Narnaul challenging the same on the ground that the income has been assessed on the higher side. The age of the deceased in the present case was 15 years. The Tribunal granted the lump-sum compensation of Rs.15,00,000/- on the ground that he was a student of 9th class and had a bright career after relying upon the judgment rendered in the case of **Suraj Aggarwal/Suraj Verma Vs. DDA and others, 2016 ACJ Delhi 1873.**

Learned counsel for the appellant-Insurance Company while challenging the impugned award submitted that the judgment rendered in the case of **Delhi Development Authority Vs. Bhagwana and others, 2015 ACJ Delhi 324** as well as Suraj Aggarwal/Suraj Verma (supra) as relied upon by the Tribunal do not apply in the facts of the present case as

they pertained to an accident occurred on account of falling of iron gate on the child in one case and falling of the child of 6 years in a pit near manhole in the second case. It is further stated that the present case pertains to a motor accident and that the Tribunal had overlooked the decision rendered in the case of **Krishan Gopal and another Vs. Lala and others**, 2013 ACJ 2594, wherein, in a case of minor child, Rs.5,00,000/- was awarded whereas in the present case the lump-sum amount of Rs.15,00,000/- has been granted which is against the settled proposition of law.

Reliance by the learned counsel for the appellant on the judgment rendered in the case of Krishan Gopal (supra) does not help. In the said case, the incident pertained to the year 1992. In the present case, the accident took place on 22.4.2017. The income in the year 2017 cannot be assessed with the income of the year 1992. The argument that the judgment rendered in the case of Delhi Development Authority do not apply deserves to be rejected. The accident may have been in those cases on account of the negligence of the Delhi Development Authority but here the question is qua the quantum of compensation on account of the death of a minor child and not as to how the said accident had occurred. Delhi Development Authority case pertained to the death of the minor child who was only 7 years of age and that too of the year 2004. Similarly, the case of Suraj Aggarwal/Suraj Verma (supra) pertained to the death of the minor child who was only 6 years of age and that too of the year 1993. In the case in hand, the age of the deceased was 15 years. He was a student and also helping his parents to do the agriculture work. No doubt, the Tribunal

has granted a lump-sum of Rs.15 Lakh but in case break up is given, the amount granted is not on the higher side. The incident is of 2017 and the deceased was also said to be a helping hand in cultivating of the agriculture land. Moreover, at that point of time, minimum wages per day of an unskilled labourer was about Rs.375/- i.e. more than Rs.11,000/- per month. In these circumstances, the income if assessed as Rs.9,000/- per month cannot be said to be on higher side. As per the judgment rendered in the case of **Sarla Verma and others Vs. Delhi Transport Corporation and another**, (2009) 6 SCC 121, the multiplier of 19 is required to be applied for a child between the age of 15 to 20. After deducting 50% dependency and granting future prospects at the rate of 40% and by also granting Rs.70,000/- under conventional heads as per the judgment rendered in the case of **National Insurance Company Limited vs. Pranay Sethi and others**, 2017 AIR(SC) 5157, there would be hardly any difference in the amount awarded as lump-sum.

Accordingly, no ground is made out to interfere in the impugned award.

Dismissed accordingly.

November 13, 2019
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(NIRMALJIT KAUR)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No