214(1) IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4641 of 2013
Date of Decision: 12.09.2019

Gurmeet Kaur

.....Appellant

Versus

Gulam Muhiudin Mir @ Tariq Mohammad and others

........Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. A.S. Dhindsa, Advocate
for the appellant.

Mr. Rajnish Malhotra, Advocate
for the respondent/insurance company.

NIRMALJIT KAUR, J. (ORAL)

The present appeal has been filed against the award dated 04.04.2013 passed by the Motor Accident Claims Tribunal, Patiala (for short, the Tribunal), vide which, only an amount of ₹2,40,000/- was granted, towards death of deceased Harwinder Kaur, who was 17 years of age.

While praying for enhancement of compensation, learned counsel for the appellant submitted that the deceased/girl was doing tuition work and earning ₹5,000/- per month and whereas, only ₹2,500/- per month was taken as her income. Secondly, no future prospects have been granted and the deduction too has also wrongly been made by the Tribunal, which could not have been done in the present case. Thirdly, multiplier of 18 should have been applied instead of 15. Lastly, the amount under two heads i.e. funeral expenses and loss of estate should have been given ₹15,000/- respectively instead of ₹5,000/-.

Learned counsel for the respondent/insurance company while opposing the enhancement qua the income, submitted that even if the notional income of the deceased is taken being a minor then it could not have been more than ₹30,000/- per annum. It is admitted that no deduction could have been applied in the said case.

In the case of *Beet Nath and another Vs. Gulab Singh and others (FAO No.159 of 2015), decided on 10.07.2017* and in the case of *Sunita Devi and another Vs. Vijay Pal and others, 2018 (2) Law Herald 1659*, as also followed by this Court in the case of *Salamuddin and anr. Vs. Sokat and ors. (FAO No.2339 of 2015), decided on 03.09.2019*, the notional income of a minor is assessed as ₹50,000/- per annum as the accident took place in the year 2010.

Admittedly, no deduction can be applied and by applying the multiplier of 18 instead of 15 as per the settled principle of law, the appellant is entitled to the enhancement on the said ground. It is also not disputed that the appellant is entitled to the enhancement under two heads i.e. funeral expenses and loss of estate to the extent of ₹15,000/- respectively instead of ₹5,000/-.

However, learned counsel for the appellant is not able to dispute that the future prospects are not to be granted in case no deduction is made.

In view of the above, the appellant is entitled to the enhanced compensation as per the provided calculation:-

Sr. No.	**Head**	**Amount assessed**
1	Income	₹50,000/- per annum
2	Multiplier	18
3	Compensation	50,000 x 18 = ₹9,00,000/-
4	Funeral expenses	₹15,000/-
5	Loss of estate	₹15,000/-
6	Total	₹9,30,000/-
7	Compensation awarded by the Tribunal	₹2,40,000/-
8	Differences	₹9,30,000 – 2,40,000 = ₹6,90,000/-

Thus, the enhanced compensation of ₹6,90,000/- be paid to the appellant within two months from the receipt of certified copy of this order alongwith 6% interest per annum from the date of filing of claim petition. In case the said amount is not paid within two months, the same shall be paid thereafter alongwith 12% interest from the expiry of the period of two months.

In the absence of any appeal having been filed by the respondent/owner, the recovery rights as granted to the insurance company are upheld.

The appeal is disposed of accordingly.

(NIRMALJIT KAUR)
JUDGE

12.09.2019
sandeep

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No