

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

FAO No. 5351 of 2017 (O&M)

Date of decision : October 04, 2019

Oriental Insurance Company LimitedAppellant

Versus

Meenakshi and othersRespondents

FAO No. 6650 of 2017 (O&M)

Meenakshi and anotherAppellants

Versus

Satwant Singh through LR's and othersRespondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Vandana Malhotra , Advocate
for the appellant (in FAO-5351-2017)
for respondent No.3 (in FAO-6650-2017)

Mr. Akshay Jindal, Advocate and
Ms. Stuti Goel, Advocate
for the appellants (in FAO-6650-2017)
for respondents No. 1 and 2 (in FAO-5351-2017)

LISA GILL, J.

This judgment shall dispose of FAO No. 5351 of 2017 (Oriental Insurance Company Limited Versus Meenakshi and others) and FAO No. 6650 of 2017 (Meenakshi and another Versus Satwant Singh through LR's and others), which arise out of award dated 15.04.2017 passed by the learned Motor Accident Claims Tribunal, Hoshiarpur (hereinafter referred to as the 'Tribunal').

Both these appeals have been filed challenging the quantum of compensation awarded by the learned Tribunal on account of death of

Apoorva Juneja.

FAO No. 6650 of 2017 has been filed by the claimants for enhancement of the compensation awarded by the learned Tribunal on account of death of Apoorva Juneja.

FAO No. 5351 of 2017 has been preferred by the insurance company seeking reduction of the compensation.

Brief facts necessary for adjudication of the case are that the claimants i.e. parents of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Apoorva Juneja on 17.09.2015, in a motor vehicle accident, caused due to rash and negligent driving of the offending vehicle, i.e. Truck tipper bearing registration No. PB-08-BT-9437, by respondent No.5. It is pleaded that the deceased, 21 years old at the time of the accident, was a brilliant student having a very bright future.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Apoorva Juneja died in the accident which took place on 17.09.2015 due to rash and negligent driving of the offending Truck bearing registration No. PB-08-BT-9437 by respondent No. 5. Learned Tribunal while assessing the income of the deceased to be ₹20,000/- per month awarded a sum of ₹21,91,000/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till date of actual realisation of the award. 50% deduction was effected. Multiplier of 18 was applied as the deceased was 21 years old at that time. Additionally, a sum of ₹6,000/- on account of loss of estate was awarded besides a sum of ₹25,000/- on account of funeral expenses.

Aggrieved of the quantum of compensation, the insurance

company and the claimants have filed these appeals.

Learned counsel for the insurance company vehemently argues that the learned Tribunal has grossly erred in assessing income of the deceased to be ₹20,000/- per month. The same is contended to be highly excessive, keeping in view the fact that the deceased was merely a student at the time of the accident. It is further submitted that excessive compensation has also been awarded towards funeral expenses. It is, thus, submitted that the appeal filed by the insurance company be allowed and that of the claimant be dismissed.

Per contra, learned counsel for the claimants submits that meagre compensation has been awarded by the learned Tribunal. It should be much higher, keeping in view the fact that the deceased was a brilliant student having completed her B.Com, besides being proficient in the application of Tally and also having cleared the Licentiate examination from the Insurance Institute of India. It is submitted that increment towards future prospects has not been afforded. Moreover, compensation under the conventional heads should also be enhanced. Learned counsel further submits that learned Tribunal has fallen in error in directing that interest of 7.5% per annum on the awarded amount should be given only in case, the compensation amount is not deposited within three months. It is, thus, prayed, that the appeal filed by the claimants be allowed and that of the insurance company be dismissed.

I have heard learned counsel for the parties at length and have gone through the record with their able assistance.

It is a matter of record that the deceased was 21 years old at the time of the accident and lost her life due to the injuries received by her in a motor vehicle accident, which took place on 17.09.2015 due to the rash and

negligent driving of Truck tipper bearing registration No. PB-08-BT-9437, by respondent No.5. Finding of the learned Tribunal on this issue has not been challenged by the insurance company and the evidence on record duly substantiates the same. The said finding is, accordingly, affirmed. It is borne out from the record that the deceased was indeed a brilliant student. Ex.A9 is the mark sheet of 10th standard examination cleared by the deceased, which reflects that she achieved 10 Grade points in three of the subjects and 9 in others. As per Ex.A11 i.e. the mark sheet in respect to 10+2 examination, it is apparent that she has scored brilliantly in the said examination as well, having achieved marks in nineties (90s) in all the subjects except one in which she has scored 89 marks. It is further borne out from the record (Ex.A17) that the deceased secured 70% marks in her B.Com examination. Ex. A25 is a copy of the certificate issued by the Insurance Institute of India, certifying that the deceased had passed Licentiate examination of the Institute. Ex.A21 is a certificate issued by the NIIT academy to prove that the deceased had completed the course for attaining proficiency in Tally.ERP.9. The deceased was admittedly a student of First year of the Three years Law course at Panjab University Swami Sarvanand Giri Regional Centre.

The Hon'ble Supreme Court in **M.R. Krishna Murthi versus New India Assurance Co. Ltd. and others 2019 (2) RCR (Civil) 455** has observed as under:-

“ In those cases where the victim of the accident is not an earning person but a student, while assessing the compensation for loss of future earning, the focus of the examination would be the career prospect and the likely earning of such a person in future. For example, where the claimant is pursuing a particular professional course, the poseer would be: what would have

been his income had he joined a service commensurating with the said course. That can be the future earning.”

In case of **Ashninbhai Jayantilal Modi versus Ramkaran Ramchandra Sharma and another 2015 (1) SCC (Civil) 792**, the Hon'ble Supreme Court assessed income of a student of Medicine to be ₹25,000/- per month in respect to an accident, which took place on 12.07.2002. Learned counsel for the claimants has referred to decision dated 29.05.2019 of this Court in **FAO No. 2879 of 2005 (Kamlesh Lamba and another versus Jatinder and others)** wherein income of a Law student has been assessed to be ₹20,000/- in respect to the accident which took place on 30.10.2002.

Keeping in view the facts and circumstances of the case as well as the specific evidence on record, it is considered just and expedient to assess income of the deceased to be ₹25,000/- instead of ₹20,000/- as assessed by the learned Tribunal. In view of the guidelines of the Hon'ble Supreme Court in the case of **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, increase on account of future prospects at the rate of 40% (₹10,000/-) is afforded, as the deceased was 21 years old at the time of accident, which takes income of the deceased to ₹35,000/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in case of **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another 2009 (3) RCR (Civil) 77**, 50% deduction is to be applied, thereby rendering income of the deceased to be ₹17,500/-(35000-17500). Applying a multiplier of 18, dependency of the claimants is assessed as ₹37,80,000/- (₹17500x12x18). The claimants are also entitled to ₹15,000/- each for funeral expenses (instead of ₹25,000) and

loss of estate (instead of ₹6000). In terms of the judgment of the Hon'ble Supreme Court in Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333 and decision dated 14.03.2019 of this Court in FAO No. 2110 of 2016 titled Shri Ram General Insurance Company Limited versus Beant Kaur and others, claimants-appellants i.e. parents of the deceased are entitled to ₹40,000/- on account of loss of filial consortium. Claimants are, thus, entitled to total compensation of ₹38,50,000/- detailed as under:-

Loss of dependency (₹17500x12x18)	₹37,80,000/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹38,50,000/-

The amount of compensation already awarded to the claimants-appellants, needless to say, shall stand deducted from the amount calculated as above. Claimants are entitled to interest at the rate of 7.5% per annum on the entire amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, FAO No. 6650 of 2017 filed by the claimants is disposed of and FAO No. 5351 of 2017 filed by the insurance company is dismissed.

(Lisa Gill)
Judge

October 04, 2019
rts

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