

FAO-4804-2007
FAO-960-2008

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

FAO-4804-2007 (O&M)
Date of Decision: 21.09.2022

PRTC

..... Appellant

Versus

SANEH LATA AND ANOTHER

..... Respondents

FAO-960-2008

SANEH LATA AND ANOTHER

..... Appellants

Versus

SURJIT SINGH AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Balwinder Singh, Advocate
for the appellants in FAO-4804-2007.

Mr. Ankush Singla, Advocate with
Mr. C.S. Jattana, Advocate
for the appellant in FAO-960-2008.

JAGMOHAN BANSAL, J. (Oral)

1. By this common order, FAO-4804-2007. and FAO-960-2008, which are arising from same cause of action and award dated 11.09.2007 passed by Motor Accident Claims Tribunal, Barnala (for

short 'Tribunal'), whereby Tribunal had awarded compensation of Rs.8,69,000/- are hereby adjudicated.

2. The facts emerging from record are that on 05.09.2006, Ravish Arora, a 20 years old boy, student of 3rd year of B. Tech (Electronics and Communication Engineering) at Bhai Gurdas College of Engineering and Technology, Bhawanigarh Road, near Ghabdan (Sangrur) while boarding a bus bearing registration No.PB.11.Y/6346 fell down and got seriously injured. On account of injuries, he passed away on the date of accident itself i.e. 05.09.2006.

3. The parents, who as per Section 166 of the Motor Vehicles Act, 1988 (for short the 'Act') are legal representatives moved a petition under Section 166 of the Act, seeking compensation on account of death of their sole son. Learned Tribunal considering the status of family as well as the fact that deceased was pursuing his engineering course assessed income of deceased Rs.12,000/- per month and accordingly determined compensation Rs.8,69,000/. Learned Tribunal further awarded interest @ 6% from the date of institution till realization.

4. Learned counsel for the appellant-PRTC states that there was no negligence on the part of driver of the vehicle. The boy alongwith other students came out of his college and like other boys was trying to board the bus from front gate of the bus. As per rules and regulations of buses, the boy was supposed to board from back door of the bus whereas he attempted to board from front door of the bus resultantly, he fell down, thus, there is contributory negligence on the part of deceased and appellant/PRTC cannot be held exclusively responsible for the cause.

He further contended that learned Tribunal has assessed income Rs.12,000/- per month of the deceased on mere presumption and assumption. There is no foundation to assess the aforesaid amount. A student of engineering cannot be expected to earn such a huge amount even after obtaining degree of engineering. He further contended that parents of deceased cannot be called as dependent especially when father of the deceased is a renowned District Court Advocate.

5. Per contra, counsel for the claimants contended that it is well known fact that state instrumentalities are unable to provide proper transport services, it is not a case of deceased, it is very common that due to non-availability of buses helpless commuters try to board not only from the doors but also windows. In such circumstances, it is unfair to hold a boy, who was well educated, responsible for the accident. He further argued that amount of compensation needs to be redetermined in view of the judgments of Hon'ble Supreme Court in **National Insurance Company vs. Pranay Sethi and others 2017 (16) SCC 680** and **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009 (6) SCC 121**.

6. I have perused the record and heard arguments of learned counsels for the parties.

7. The conceded position emerging from record is that Ravish Arora, a 20 years old boy, who was pursuing his engineering course had passed away in the accident. As per arguments of learned counsel for the appellant-PRTC, a number of students were trying to board the bus and deceased was also trying to board from front door of the bus. The father

of deceased is a practicing lawyer and deceased was sole son. Learned Tribunal applying its mind had assessed Rs.12,000/- income of the deceased boy and accordingly assessed the amount of compensation.

8. I do not find any merit in the appeal of the PRTC, which is a State run and controlled Transport undertaking. It is responsibility of the State to provide proper services to the citizens of the country. It is miserable state of affairs that inspite of 75 years of independence, the States are not able to provide even basic amenity of transportation still appellant-State is claiming that deceased was responsible for boarding the bus from front door, even though, it is conceded that there was heavy rush and a number of students were trying to board the bus. It is well known fact that students who are future of this pious nation have to board not only from front door but on so many occasions they are found entering from windows and they are found travelling on roof of the bus, which is very dangerous. The State cannot deflect from its responsibility and pass on to the citizens, thus, I do not find any ground to hold the deceased responsible for the accident. In any case, I am of the considered opinion that our country being a welfare and social State, it is responsibility of the State to pay proper and appropriate compensation in such type of incidents. As per Section 166 (1) (C) of the 1988 Act, compensation can be claimed by legal representatives of the deceased so parents of deceased had rightly filed claim petition. Therefore, I find that there is no substance in the appeal of the PRTC-appellant.

9. On the question of determination of income of the deceased, I find that a three Judge Bench of Hon'ble Supreme Court in **Kirti and**

another Vs. Oriental Insurance Company Limited (2021) 2 SCC 166,

has recently dealt with question of income of students, non-working women and has categorically held that income of students/children and non-working women must be assessed according to prevailing circumstances, including status of the family, the future prospects, the income earned by people, who are working in the same business or profession. In the present case, the deceased was pursuing his engineering course and accident took place on 05.09.2006, the age of parents at the time of accident was such that they could not be expected to have another kid. The deceased was their sole son and in monetary terms they cannot be compensated. It is only an endeavor of courts to assess the irreparable loss of bereaved parents.

10. Keeping in view the fact that father of the deceased is a practicing lawyer and as per contention of the appellant he is having flourishing practice, the deceased was sole son and he was pursuing his 3rd year of Bachelor of Engineering, I find that it is unbelievable that income of the deceased should be assessed less than Rs.12,000/- per month. Learned Tribunal has rightly assessed income of the deceased. It is also well known fact that students of engineering after completing their course in any case are getting more than Rs.12,000/- per month. The contention of appellant-PRTC that income of deceased should be assessed below Rs.12,000/- per month is outrightly turned down. Keeping in view the facts and circumstances of the case in hand and applying principles laid down in **Kirti and another Vs. Oriental**

Insurance Company Limited (2021) 2 SCC 166, National Insurance

Company vs. Pranay Sethi and others 2017 (16) SCC 680 and Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009 (6) SCC 121, the amount of compensation is redetermined as below:-

Particulars	Amount of compensation
Annual income of the deceased	1,44,000/-
Future prospects	40.00%
Income after addition of future prospects	2,01,600/-
Deduction on account of personal expenses	50.00%
Assessed income	1,00800/-
Multiplier (18)	18,14,400/-
Loss of estate	16500
Loss of consortium (44000x2)	88,000/-
Funeral expenses	16500/-
Total	19,35,400/-

11. The appellants are entitled to interest @ 7.5% on the **enhanced amount** from the date of filing of claim petition till the date of actual payment. It is made clear that amount already paid would be deducted from claim determined hereinabove.
12. The respondents are directed to make payment within a period of eight weeks from today.
13. The appeal is disposed of in the abovesaid terms.

(JAGMOHAN BANSAL)
JUDGE

21.09.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>