

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

**FAO No.5465 of 2006
Reserved on : 26.08.2022
Date of Decision : 06.09.2022**

Mohinder Kaur and Others

....Appellants

VERSUS

Hasmeet Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Harsh Aggarwal, Advocate for the appellants.

Mr. Onkar Singh Batalvi, Advocate for respondent Nos.1 and 2.

Mr. Ravinder Arora, Advocate for respondent No.3

ALKA SARIN, J.

The present appeal has been preferred by the claimants against the award dated 27.07.2006 passed by the Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as the 'Tribunal').

The brief facts relevant to the present lis are that the claimants filed a claim petition under Section 166 of the Motor Vehicle Act, 1988 stating therein that their 19 years old son Hardeep Singh was going on his motor cycle bearing No.PB-1-AT-0437 towards Y.P.S. Chowk, Patiala. He was followed by Ranjit Singh s/o Dar Amarjit Singh Cheema. When Hardeep Singh reached near the gate of Military Headquarter, Patiala then the offending Jeep bearing No.PB-57-8112 came from Y.P.S. Chowk, Patiala driving at a very high speed and on the wrong side of the road, and

hit the motor-cycle of the deceased, Hardeep Singh. It was stated that the deceased was going on his motorcycle at a normal speed. The offending Jeep crushed the head of Hardeep Singh and he succumbed to his injuries at the spot. It was pleaded in the claim petition that the deceased was a young man of 19 years of age and a second year student of MBBS studying in Rajindra Medical College and Hospital, Patiala. It was also averred that he was doing tuition job work and was earning Rs.8000/- to Rs.10000/- per month from tuition. It was further stated that the deceased was a topper and stood 3rd in PMT test in Ludhiana City. He was a very good football as well as cricket player. The claim petition was contested by respondent Nos.1 and 2 who filed their joint written statement denying that Hardeep Singh was 19 years of age and further that he was self-employed and was earning Rs.8000/- to Rs.10000/- per month. It was further averred that respondent No.1 had falsely been implicated in the case. Respondent No.3, alongwith the usual pleas, raised the plea that respondent No.1 was not driving the offending Jeep in the course of his employment with the owner and insured and as such the insurance company was not liable to pay the compensation. Further, it was stated that the offending Jeep was not having a valid registration certificate, route permit and fitness certificate at the time of the alleged accident.

Based on the pleadings of the parties, the following issues were framed :

1. Whether Hardeep Singh Sekhon died in Motor Vehicular accident due to rash and negligent driving of Jeep No.PB-57-8112 by respondent No.1 ? OPP

2. Whether the respondent No.1 was not having a valid and effective driving license at the time of accident, if so, its effects ? OPR
3. Whether Hardeep Singh deceased was not having a valid driving license at the time of accident, if so, its effects ? OPR
4. To what amount and from whom, the claimants are entitled to receive compensation ? OPP
5. Relief.

The Tribunal on issue No.1 held that the accident stood proved resulting in the death of Hardeep Singh. Qua the amount of compensation, the Tribunal awarded a lump sum compensation of Rs.4 lakhs.

Learned counsel for the claimant-appellants while relying on the judgment of the Supreme Court in the case of **Ashvinbhai Jayantilal Modi Vs. Ramkaran Ramchandra Sharma & Anr. [2014 (4) RCR (Civil) 543]** has contended that in a similar case where the deceased was 19 years of age and was pursuing the professional course of medicine and had died in a motor vehicular accident, the notional income of the deceased was assessed as Rs.25,000/- per month. Further reliance has been placed upon the judgment of **Adarsh Gupta & Ors. Vs. National Insurance Co. Ltd & Ors. [2021 SCC OnLine J&K 732]** to contend that in the said case also the deceased was a medical student and the Court relying upon the judgment of **Ashvinbhai Jayantilal Modi's** case (*supra*) had assessed the income of the deceased as Rs.25,000/- per month. Learned counsel would further contend that based on the notional income, multiplier of 18 and future prospects @ 40% ought to have been applied. Further, no amount has been awarded

under the conventional heads. Even the claimants who are parents and unmarried sister of the deceased have not been granted any amount under the Head consortium.

Per contra, learned counsel for the respondents have vehemently contended that the amount awarded is sufficient inasmuch as there was no evidence on the record qua the income of the deceased.

Heard.

The deceased in the present case was a brilliant medical student. The Tribunal ought to have taken prospective income of the deceased and awarded compensation in accordance with law.

In the case of **Ashvinbhai Jayantilal Modi** (*supra*), the Supreme Court held as under :

“9. We have heard the learned counsel for the parties. In our considered view, the deceased was 19 years old and was pursuing his medical degree with good marks at the time of the accident. With respect to the future income of students pursuing professional courses we refer to Arvind Kumar Mishra v. New India Assurance Co. Ltd. and Anr.[3], wherein this Court held as under :

“14. On completion of Bachelor of Engineering (Mechanical) from the prestigious institute like B.I.T., it can be reasonably assumed that he would have got a good job. The appellant has stated in his evidence that in the campus interview he was selected by Tata as well as Reliance Industries and was offered pay package of Rs.3,50,000/- per

annum. Even if that is not accepted for want of any evidence in support thereof, there would not have been any difficulty for him in getting some decent job in the private sector. Had he decided to join government service and got selected, he would have been put in the pay scale for Assistant Engineer and would have at least earned Rs.60,000/- per annum. Wherever he joined, he had a fair chance of some promotion and remote chance of some high position. But uncertainties of life cannot be ignored taking relevant factors into consideration. In our opinion, it is fair and reasonable to assess his future earnings at Rs.60,000/- per annum taking the salary and allowances payable to an Assistant Engineer in public employment as the basis....”

The Tribunal and the High Court have not taken into proper consideration that the deceased was a student of medicine at the time of the accident while determining his future income. The courts below have wrongly ascertained the future income of the deceased at only Rs.18,000/- per month, which in our view is too less for a medical graduate these days. Therefore, the courts below have failed in following the principles laid down by this Court in this aspect in the above case. The deceased was a diligent and outstanding student of

medicine who could have pursued his M.D. after his graduation and reached greater heights. Today, medical practice is one of the most sought after and rewarding professions. With the tremendous increase in demand for medical professionals, their salaries are also on the rise. Therefore, we have no doubt in ascertaining the future income of the deceased at Rs.25,000/- p.m. i.e. Rs.3,00,000/- p.a.”

The said judgment was followed in case of **Adarsh Gupta** (*supra*). The judgment of the Supreme Court pertains to the year 2014 wherein the income of the deceased, who was 19 years of age and was a medical student, was notionally assessed as Rs.25,000/- per month. The accident in the present case pertains to the year 2003. Therefore, keeping in mind the law laid down in the cases of **Ashvinbhai Jayantilal Modi** (*supra*) and **Adarsh Gupta** (*supra*) the notional income of the deceased is assessed as Rs.20,000/- per month. As per law laid down by the Supreme Court in **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. [2009 (3) RCR (Civil) 77]**; **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [2017 (16) Supreme Court Cases 680]**; **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [2018 (18) SCC 130]** and **N. Jayasree & Ors. vs. Cholamandalam MS General Insurance Company Ltd. [2021 (4) RCR (Civil) 642]**, the compensation is re-worked out as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income of the deceased	Rs.20,000/-

2	Annual income of the deceased	Rs.2,40,000/- (20000x12)
3	Annual income after 50% deduction towards personal expenses	Rs.1,20,000/-
4	Addition of 40% on account of future prospects	Rs.1,68,000/- (120000+48000)
5	Multiplier	18
6	Amount of compensation	Rs.3024000/- (168000x18)
7	Loss of estate	Rs.16500/-
8	Funeral expenses	Rs.16500/-
10	Loss of consortium Parental Filial	Rs.88000/- (44000x2) Rs.44000/-
11	Grand Total	Rs.3189000/-
	Difference of compensation	Rs.27,89,000/- (3189000-400000)

The enhanced amount of Rs.27,89,000/- over and above the amount already awarded by the Tribunal shall carry interest @ 7% per annum from the date of filing of the claim petition till realization. It is further clarified that the entire amount shall be released to the claimants.

In view of the above discussion, the above-captioned appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

06.09.2022
tripti

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO