

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Decided on: 22<sup>nd</sup> February, 2012*

+ **MAC.APP. 468/2011**

**BAJAJ ALLIANZ GENERAL INSURANCE CO LTD.**

.... Appellant

Through: Mr. Rajat Brar, Advocate.

versus

**BACCHU SINGH & ORS** ..... Respondent

Through: Mr. Rajnish Kumar Jha, Adv.  
for R-1 & R-2.

**CORAM:**

**HON'BLE MR. JUSTICE G.P.MITTAL**

## **J U D G M E N T**

### **G. P. MITTAL, J. (ORAL)**

1. The Appellant Bajaj Allianz General Insurance Company Limited seeks reduction of the compensation of ₹ 22,77,500/- awarded for the death of Harender Kumar, who was aged 21 years and was a third year student of Govt. Polytechnic pursuing Diploma in Engineering.
2. The evidence was produced by the Claimants that the deceased had a brilliant sports record. Without any evidence on record, the Motor Accident Claims Tribunal (the Claims Tribunal) assumed that the deceased would have been employed as a Physical Education Teacher (PET) in any Govt. school and would have earned an income of ₹20,000/- per month. The

Claims Tribunal assumed the deceased's potential income to be ₹20,000/- and following *Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.*, (2009) 6 SCC 121, deducted 50% towards personal living expenses and applied the multiplier of '18'. The Claims Tribunal awarded ₹ 1,00,000/- towards loss of love and affection to compute the overall compensation of ₹ 22,77,500/-.

3. It is urged by the learned counsel for the Appellant that no evidence was led by the Respondents (Claimants) that the deceased had a potential for employment as PET. There was no whisper that the qualification i.e. a Diploma in Engineering would have enabled him to secure the job of PET.
4. In the case of a student pursuing a professional course, the Tribunal is to consider the potential income of the deceased after completion of the course. In the case of *Haji Zainullah Khan (Dead) by Lrs. v. Nagar Mahapalika, Allahabad, 1994 (5) SCC 667*, death of a young boy, aged 20 years took place in an accident which happened in the year 1972. The deceased was a student of B.Sc Ist year (Biology), a compensation of ₹ 1,46,900/- was increased to ₹ 1,50,000/-.
5. In *Ganga Devi & Ors. v. New India Assurance Co. Ltd. & Ors.*, MAC APP. 359/2008, decided by this Court on 23.11.2009 which related to the death of a student (studying medicine) doing internship and was to be awarded MBBS degree in a short time, the Tribunal awarded a compensation of ₹ 9,35,352/- on

the basis of the minimum wages of a Graduate. This Court observed that although the deceased was getting a stipend of ₹ 5,000/- per month at the time of his death in the accident, he would have ultimately joined as a doctor at a salary ranging between ₹ 16,000/- per month to ₹ 25,000/- per month. Thus, average monthly income of the deceased was taken as ₹ 18,000/- and after adding 50% towards future prospects, the compensation was enhanced to ₹ 21,36,000/-.

6. Apart from pursuing the Diploma in Electrical Engineering from a Govt. Polytechnic, the deceased had a brilliant record in sports. He represented Delhi State in State Judo Championship in the year 2005-06. He obtained first position in 1500 mtr. race in the Annual Sports Meet held by G.B. Pant Polytechnic in the year 2008; he got second position in 6<sup>th</sup> Sub-Junior Tug-of-War National Championship; and he obtained third position in 1500 mtr. race in the year 2007-08 in Inter-Polytechnic Sports Meet. There are other certificates showing that he was an excellent sports person. He also obtained Diploma in Software Engineering from NIIT. These documents were available on the trial court record though were not specifically proved.
7. In the circumstances, the deceased would have obtained employment as a Junior Engineer and the fact that he was an excellent sports person would have accelerated his career prospects. The Salary of Junior Engineer in the year 2008 was approximately ₹20,000/- Although the basis for taking the

salary of ₹20,000/- as taken by the Claims Tribunal cannot be accepted, but his potential earning capacity as assumed to be ₹ 20,000/- by the Claims Tribunal cannot be faulted.

8. No other ground has been taken in the Appeal.
9. I am not inclined to interfere with the award. The Appeal is dismissed.
10. Statutory amount shall also be refunded to the Appellant Insurance Company.

**(G.P. MITTAL)**  
**JUDGE**

**FEBRUARY 22, 2012**

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