

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

FAO No.291 of 2002 (O&M)

Date of decision: 25.08.2015

Smt. Mewa and another

.....Appellants

Versus

Avtar Singh and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Surender Saini, Advocate,
for the appellants.

Ms. Monika Jangra, Advocate,
for Ms. Vandana Malhotra, Advocate,
for respondent No.3-Insurance Company.

Ritu Bahri, J.

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 15.10.2001 on account of death of Tarsem alias Babu in a vehicular accident. Appellants are parents of deceased Tarsem alias Babu.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 12.12.1998, deceased-Tarsem alias Babu had gone to his school at village Janessaro, Tehsil Indri, District Karnal. During half break, he was coming to take lunch and was standing near *kacha* portion of the road. In the meantime, a truck bearing registration No.HP-07-2952, being driven by respondent No.1-Avtar Singh in a rash and negligent manner, came from the opposite side and dashed against Tarsem alias Babu, as a result of which, he died on the spot. At the time of accident, he was 6 years of age and was student of Ist Class. The

accident had occurred due to rash and negligent driving of aforesaid truck by respondent No.1. With regard to the accident, FIR (Ex.P1) was recorded. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had taken place on account of rash and negligent driving of truck bearing registration No.HP-07-2952 by Avtar Singh-respondent No.1. Ultimately, the claim petition was accepted by the Tribunal and a sum of Rs.1,05,000/- was awarded as compensation on account of death of Tarsem alias Babu along with interest at the rate of 9% per annum from the date of filing of the petition till its realization. While assessing compensation, the Tribunal has referred to the fixed notional income as stated in Clause 6 of Second Schedule of the Act. As per this Schedule, the notional income is to be taken as Rs.15,000/- Multiplier of 15 was applied. Since, it was not a petition under Section 163-A of the Act, compensation of Rs.1,00,000/- was awarded. In addition to it, further sum of Rs.5000/- was awarded as funeral charges etc. Hence the claimants were found entitled to total compensation of Rs.1,05,000/-.

Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

REASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the case file.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident.

In this case, compensation is required to be reassessed in view of the judgment delivered by the Hon'ble Supreme Court in **Kishan Gopal and another Vs. Lal and others**, 2013 (4) RCR (Civil) 276. In that case, while referring to the amount given for notional income in the Second Schedule, the Hon'ble Supreme Court has observed that this Schedule was made in the year 1994 and the value of rupee has come down drastically since then. Therefore, the notional income of non-earning family member should have been taken to Rs.30,000/- per annum. The age of the deceased-child before the Hon'ble Supreme Court was 10 years.

In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments passed in **Kishan Gopal's** case (supra), **Asha Verman and others vs. Maharaj Singh and others**, 2015(2) RCR (Civil) 520, **Sarla Verma and others vs. Delhi Transport Corporation and another**, 2009 (3) RCR (Civil) Page 77, **Rajesh and others vs. Rajbir Singh and others**, 2013 (9) SCC 54 and **Munna Lal Jain and another vs. Vipin Kumar Sharma and others**, 2015(3) Recent Apex Judgments 459. Accordingly, the compensation re-assessed as under:-

SR. No.	HEADS	CALCULATION
(i)	Notional Income	Rs.30,000/- per annum
(iv)	Compensation after multiplier of 15 is applied	Rs.30,000 x 15 = Rs.4,50,000/-
(v)	Loss of love and affection	Rs.1,00,000/- (Rs.50,000/- each to the parents)
(vi)	Funeral expenses	Rs.25,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.5,75,000/-
	Enhanced amount of compensation	Rs.5,75,000 – 1,05,000 = Rs.4,70,000/-

payable within a period of two months from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in the case of **Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others**, 2015(1) SCC 539. Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

25.08.2015
ajp

(RITU BAHRI)
JUDGE