

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

**FAO No.6564 of 2011 (O&M)
Date of Decision: March 09, 2015**

Kaushalaya Rani and another

..Appellant(s)

Versus

Lekh Raj @ Lekhu & others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

Present: Mr. Kuldeep Khandelwal, Advocate
for the appellants.

Mr. R.M. Suri, Advocate
for respondent no.3-Insurance Company.

ANITA CHAUDHRY, J.

1. This appeal is by the claimants-appellants seeking enhancement of the award dated 21.05.2011, passed by the Motor Accident Claims Tribunal, Fatehabad (here-in-after referred to as the Tribunal).

2. Manpreet, a child just 10 years old, died in a vehicular accident which occurred on 09.08.2010. The Tribunal, on appreciation of the oral and documentary evidence took the notional income at Rs.15,000/- and calculated the compensation at Rs.2,25,000/- and added Rs.2,000/- as funeral expenses, thus allowing a claim of Rs.2,27,000/-.

3. The submission on behalf of the appellants is that the amount allowed was less and the child would have been a support for the family and they were entitled to compensation for loss of love and affection and a higher amount for funeral expenses. Reliance was placed upon ***Mohd. Ayyub and another Vs. Satish Kumar Gupta and others 2010 ACJ 420.***

4. Per contra, the counsel appearing for the insurance company supported the judgment.

5. A perusal of the judgment reveals that no evidence was led by the claimants that the child was contributing or was assisting his parents for any work. The child was only 10 years old, therefore, the notional income of Rs.15,000/- was rightly taken.

6. In ***Puttamma and others Vs. K.L. Narayana Reddy and another 2014(1) RCR (Civil) 443***, the Hon'ble Apex Court had referred to the proposals made to amend the Motor Vehicle Bill, 2012 which had been passed by the Rajya Sabha. The appeal was introduced to substitute Section 163A of the Motor Vehicles Act, thereby amending the Second Schedule which finds detail reference in the judgment following that the Hon'ble Apex Court had observed as under:-

“55. From the proposed Bill we find that there is a proposal to change the multiplier applicable for different age groups; it does not contemplate schedule structure of compensation. The

factors to be considered for working out compensation are (a) age of the victim (b) multiplier (c) annual income up to Rs.1,00,000/- (the maximum annual income for calculation of compensation will be deemed to be Rs.1,00,000/- even if the income exceeds Rs.1,00,000/-). Separate provisions have been made for grievous injury and non-grievous injury etc.

56. The Central Government was bestowed with duties to amend the Second Schedule in view of Section 163-A(3), but it failed to do so for 19 years in spite of repeated observations of this Court. For the reasons recorded above, we deem it proper to issue specific direction to the Central Government through the Secretary, Ministry of Road Transport & Highways to make the proper amendments to the Second Schedule table keeping in view the present cost of living, subject to amendment of Second Schedule as proposed or may be made by the Parliament. Accordingly, we direct the Central Government to do so immediately. Till such amendment is made by the Central Government in exercise of power vested under sub-section (3) of Section 163A of the Act, 1988 or amendment is made by the Parliament, we hold and direct that for children upto the age of 5 years shall be entitled for fixed compensation of Rs.1,00,000/- (rupees one lakh) and persons more than 5 years of age shall be entitled for fixed compensation of Rs.1,50,000/- (rupees one lakh and fifty thousand) or amount may be determined in terms of Second Schedule whichever is higher. Such amount is to be paid if any application is filed under Section 163-A of the Act, 1988."

6. In view of the above, there can be no change in the notional income or the multiplier and the compensation would thus be Rs.15,000/- X 15 = Rs.2,25,000/-. However, I would allow Rs.50,000/- for loss of love and affection and Rs.25,000/- for funeral expenses; raising the total to

Rs.3,00,000/-. The Tribunal had allowed Rs.2,27,000/- which shall be deducted and the remaining amount shall be paid to the appellants within two months, failing which it shall carry interest @ 6% from the date of filing of appeal till realization.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

March 09, 2015
sunil