

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

**F. A. O NO. 2394 OF 2014 (O&M)
DECIDED ON : 09.03.2015**

Pinki Verma and another

...Appellants

versus

Sandeep and others

...Respondents

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. A. K. Gahlawat, Advocate,
for the appellants.

K. C. PURI, J. (ORAL)

Challenge in this appeal is to the Award dated 16.10.2013 passed by Shri Jasbir Singh, Motor Accident Claims Tribunal, Karnal, vide which claim petition preferred by the claimants on account of death of minor Tarun in a motor vehicular accident, was accepted and a sum of ₹3,75,000/- along with interest @ 9% per annum was awarded to the claimants.

Briefly stated, Pinki Verma and Anurag Verma-claimants filed claim petition claiming compensation on account of death of their minor son Master Tarun in a motor vehicular accident.

It is alleged that on 29.04.2011, the deceased namely Master Tarun was playing in front of his house in Gali No.1, New

Bahadur Chand Colony, Hansi Road, Karnal. At about 12.00 o'clock, one Tavera bearing registration No. HR-45-8601 came to deliver milk at the house of one Balram, who is neighbour of the claimants in Gali No.1. After delivering the milk, driver of the said Tavera i.e respondent No.1 drove his Tavera in a rash and negligent manner without caring for the child and suddenly, he turned his Tavera back and the deceased Tarun was crushed under the rear wheel of said Tavera. Due to said accident, Tarun received multiple greivous injuries on his head and he died at the spot. Therefore, a sum of ₹20,00,000/- has been claimed as compensation.

Notice of the claim petition was given to respondents. Respondent No.1 filed written statement taking preliminary objections regarding locus standi; maintainability. On merits, it was denied that the any accident had ever taken place. It was further pleaded that false case has been registered against the respondents at the instance of claimants. The other allegations were denied.

Respondent No. 2 filed separate written statement taking preliminary objections regarding maintainability; cause of action; locus standi; petition being bad for mis-joinder and non-joinder of necessary parties. It was further pleaded that respondent No.1 was neither the driver nor he was holding any valid or effective driving license at the time of accident. The other allegations were denied.

Rejoinder was not filed. From the pleadings of parties, following issues were framed :

1. Whether the accident in question causing the death of Tarun son of Anurag Verma occurred on account of rash and negligent driving of the offending vehicle bearing registration No. HR-45-8601 by respondent No.1? OPP
2. To what amount of compensation the petitioners are entitled to and from whom ? OPP
3. Whether the claim petition is not maintainable in the present form ? OPR
4. Whether the claimants have got no locus standi to file the present claim petition ? OPR
5. Whether the petition is bad for mis-joinder and non-joinder of necessary parties ? OPR
6. Whether the driver of the offending vehicle was not holding a valid and effective driving license at the time of accident ? OPR
7. Relief.

In order to prove their case, claimant Pinki Verma herself stepped into the witness box as PW-1 and closed the evidence after tendering certain documents.

On the other hand, respondents did not examine any witness and closed their evidence, after tendering certain documents.

The learned Tribunal, after appraisal of the evidence available on record, allowed the petition with costs and an award of ₹3,75,000/- along with interest @ 9% per annum was passed in favour of the claimants, from the date of filing the petition till its realisation. However, the respondents were held jointly and severally liable to pay the amount of compensation.

Feeling dissatisfied with the above said award dated 16.10.2013, both the claimants have preferred the present appeal for enhancement.

The only point urged before me during the course of arguments is that the amount of ₹3,75,000/- awarded as compensation by the Tribunal is on lower side. It is further submitted that in authority "**Kishan Gopal and another vs. Lala and others**" **2013 (4) RCR (Civil) 276 (SC)**, ₹5 lacs have been granted in respect of death of 10 years old child.

I have carefully considered the said submission but do not find any force in the same.

In Kishan Gopal and another's case (supra), the death was of 10 years old child and according to the averments made in that case, the said child was assisting his parents in agricultural occupation. Admittedly, in the present case, the deceased was only 03 years old and was unable to help the parents. ₹5 lacs was

granted in respect of death of child aged about 10 years and as such, the amount of ₹3,75,000/- awarded in respect of death of child aged about 03 years, cannot be said to be on lower side.

No other point has been urged before me.

So, in view of the above discussion, the appeal is without any merit and the same stands dismissed in limni.

MARCH 03, 2015
shalini

(K. C. PURI)
JUDGE