

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

**FAO No.9368 of 2014 (O&M)
Date of decision: 21.12.2015**

Mahindro Devi and another

....Appellants

Versus

Ashok Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Rajwinder Kaur, Advocate,
for Mr. Tribhawan Singla, Advocate,
for the appellants.

Mr. Vivek Aggarwal, Advocate,
for respondent Nos. 1 and 2.

Mr. Binat Sharma, Advocate,
for Mr. A.S. Sidhu, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.26014-CII of 2014

For the reasons mentioned in the application, same is allowed
and delay of 207 days in filing of the appeal is condoned.

FAO No.9368 of 2014

This appeal has been filed by the claimants-appellants seeking
enhancement of compensation awarded by Motor Accident Claims Tribunal,
Ambala (hereinafter referred to as 'the Tribunal') vide award dated
23.12.2013, on account of death of their son-Gaurav in a motor vehicular
accident which took place on 12.04.2013.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 12.04.2013, Vinod Kumar-claimant No.2 and his son Gaurav (deceased) were returning to their house on foot after cutting the wheat crop of one Satpal son of Madan Lal. They were going on correct side on Adhoya-Ugala Road. Gaurav was ahead of his father-claimant No.2. At about 4.30 P.M., Gaurav was proceeding towards his house and covered some distance from Ravi Dass Aashram, a car bearing registration No. HR-02-Z-6510 being driven by Ashok Kumar-respondent No.1 in a rash and negligent manner, came from Adhoya side at a very high speed and hit Gaurav from behind, as a result of which, he fell down on the road and received multiple grievous injuries. After the accident, respondent No.1 stopped his car for a while, but thereafter, he fled away from the spot towards village Shahbad side. Gaurav was taken to CHC, Shahbad, from where he was referred to PGI, Chandigarh. However, Gaurav succumbed to his injuries on 13.04.2013. With regard to the accident, FIR No.60 dated 13.04.2013, under Sections 279/337/304-A IPC was recorded at Police Station, Barara, at the instance of Vinod Kumar. 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 been caused on account of rash and negligent driving of offending car by Ashok Kumar-respondent No.1 and thus, returned the finding on Issue Nos.1 and 2 in favour of the claimants. This finding was rightly given on the basis of deposition of Vinod Kumar (PW-1), who was an eye witness of the accident and on whose statement,

FIR (Ex.P1) was registered. Since the claim petition was filed under Section 163-A of the Act, the notional income of deceased child, who was 10 years of age at the time of death/accident, was taken as Rs.15,000/- per annum and multiplier of 15 was applied. Thus, the claimants were found entitled to compensation of Rs.2,25,000/-. In addition to it, Rs.2000/- were awarded towards transportation of dead body/funeral expenses and Rs.2500/- towards loss of estate. Hence, the claimants were found entitled to total compensation of Rs.2,29,500/-, rounded off to Rs.2,30,000/- along with interest @ 7.5% per annum from the date of filing of the petition till realization. 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 the peculiar facts and circumstances of the case, to meet the ends of justice, the notional income of deceased is taken as Rs.30,000/- in view of the judgment passed by the Hon'ble Supreme Court in **Kishan Gopal and another Vs. Lala and others**, 2013 (4) RCR (C) 276 and the compensation is hereby reassessed as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Notional Income	Rs.30,000/-
(ii)	Compensation after multiplier of 15 is applied (age 10 years)	Rs.30,000/- x 15 = Rs.4,50,000/-
(iii)	Loss of love and affection, funeral expenses etc.	Rs.50,000/-
(iv)	TOTAL COMPENSATION AWARDED	Rs.5,00,000/-

(v)	Enhanced amount of compensation	Rs.5,00,000 – 2,30,000 = Rs.2,70,000/-
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The enhanced amount of compensation of **Rs.2,70,000/-** shall be 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.

(RITU BAHRI)
JUDGE

21.12.2015
ajp