

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

(1)

**FAO No.497 of 2003 (O&M)
Date of Decision: February 18, 2016.**

Nachhattar Singh and another

.....APPELLANT(s).

VERSUS

Jagga Singh and others

.....RESPONDENT(s).

(2)

**FAO No.498 of 2003 (O&M)
Date of Decision: February 18, 2016.**

Ram Pal and another

.....APPELLANT(s).

VERSUS

Jagga Singh and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. H.S. Aujla, Advocate for
Mr. N.S. Dandiwal, Advocate
for the appellant (s).

Mr. R.C. Kapoor, Advocate
for respondent No.3.

Mr. Navin Kapoor, Advocate
for respondent No.6.

SURINDER GUPTA, J.

Both these appeals have been taken up together for disposal as
these arise from common award relating to the accident dated 09.05.1999

with truck bearing registration No.PB-04F-9632 (later referred to as 'the offending vehicle') which struck against canter bearing registration No.PB-29-9673 (later referred to as 'the canter'), resulting in death of Angrej Singh son of claimants Nachhattar Singh and Lakhbir Kaur (MACT case No.47 of 01.06.1999) and Sanjiv Kumar son of claimants Ram Pal and Sunita Rani (MACT case No.48 of 01.06.1999). The appellants-claimants have sought enhancement of the compensation as awarded by Motor Accident Claims Tribunal, Moga (later referred to as 'the Tribunal').

The case of the claimants, in brief, is that on 09.05.1999, deceased Angrej Singh and Sanjiv Kumar were returning to Moga from Anandpur Sahib in the canter. There were about 20 occupants in the canter. When the canter reached near Buggipur Chowk, G.T. Road, Moga, the offending vehicle came from Barnala side, being driven in a rash and negligent manner and hit the canter. Angrej Singh and Sanjiv Kumar sustained injuries and were sent to Civil Hospital, Moga, where Sanjiv Kumar died and Angrej Singh was referred to D.M.C. Hospital, Ludhiana, but he also succumbed to the injuries on the way.

Respondents No.1 and 2 contested the claim petitions with the averments that the accident took place due to rash and negligent driving of canter by its driver.

Respondent No.3-insurer of the offending vehicle also contested the claim petition and alleged that canter was not a passenger vehicle. It also alleged breach of terms and conditions of the insurance policy by respondent No.2 and denied its liability to pay compensation.

On appraisal of evident, the Tribunal observed that the accident

had taken place due to rash and negligent driving of the offending vehicle by its driver.

Deceased Sanjiv Kumar and Angrej Singh both were of 15 years of age and were students of 10th class. The claimants alleged that Sanjiv Kumar was doing part time job in spare parts shop of Pawan Kumar, Purana Gulabi Bag, Moga and drawing salary of ₹1500/- per month while the parents of deceased Angrej Singh averred that he was doing part time work at his father's work-shop and earning ₹3,000/- per month.

The Tribunal assessed compensation of ₹75,000/- for the death of Angrej Singh and Sanjiv Kumar each to which a sum of ₹5,000/- added towards funeral expenses and ₹2,000/- towards loss of love and affection and claimants were held entitled to compensation of ₹82,000/- vide separate awards passed by the Tribunal.

Learned counsel for the appellants has argued that the deceased were 15 years of age. The Tribunal neither assessed their notional income nor applied multiplier while calculating the amount of compensation. The award of ₹75,000/- as compensation, ₹5,000/- towards funeral expenses and ₹2,000/- for loss of love and affection, are on lower side.

Learned counsel for the insurance company has argued that deceased were non-earning members. No evidence was produced that they were employed anywhere, rather they were students and the Tribunal has taken a pragmatic view while assessing the amount of compensation for their death.

Both the deceased were 15 years of age and were studying in 10th class. They are to be taken as non-earning members of the family.

Hon'ble Apex Court in case of ***Kishan Gopal and Anr. Vs. Lala and others 2013 (5) CTC 212***, assessed notional income of a child of 10 years of age, who got killed in the accident as ₹30,000/- per annum. In that case, accident had taken place in the year 1992. Keeping in view the inflationary trend, rising prices and increase in the cost of living during the period from 1992 to 1999, annual income of the deceased can be safely assessed as ₹35,000/- per annum.

In case of ***Kishan Gopal and Anr. Vs. Lala and others (supra)***, Hon'ble Apex Court has applied multiplier as per the age of claimant. However, while calculating the amount of compensation in case of ***Munna Lal Jain and others Vs. Vipin Kumar Sharma and others 2015(3)RCR (Civil) 447***, a three judges Bench of Hon'ble Apex Court has held that the multiplier is to be applied as per the age of the deceased. In case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121***, multiplier of 18 was suggested for the deceased within the age group of 15 to 25 years. Applying the ratio of law in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (supra)***, the amount of compensation to which the claimants are entitled to, is calculated as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Notional annual Income of both the deceased	₹35000
(ii)	Compensation after multiplier of 18 is applied	(₹35000X18)= ₹630000
(iii)	For loss of love and affection and loss to the estate	₹100000
(iv)	Funeral expenses	₹25000
<i>Total</i>		₹755000

In view of my above discussion, both the appeals are accepted. The awards of the Tribunal are modified and the compensation allowed to the appellants-claimants is enhanced from ₹82,000/- to ₹7,55,000/- (in both appeals) for the death of Angrej Singh and Sanjiv Kumar. The enhanced amount of compensation will carry interest 7.5% per annum from the date of filing of the petition till actual realization. The amount of enhanced compensation shall be apportioned between the claimants as per the award. Respondent No.3-insurance company will deposit the share of appellants-claimants in their bank accounts or pay the same through demand drafts. The claimants shall also be entitled to costs of this appeal. The counsel fee is assessed ₹20,000/-.

February 18, 2016.
Sachin M.

(SURINDER GUPTA)
JUDGE