

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**FAO No. 10056 of 2014**

**Date of Decision : 22.10.2016**

Ram Swaroop and another

....Appellants

Versus

Ombir and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. B.K. Bagri, Advocate  
for the appellants.

Mr. S.S. Sidhu, Advocate  
for respondent no. 3.

**Surinder Gupta, J.**

This is appeal by Ram Swaroop and another seeking enhancement of compensation awarded to them for death of their son Jai Kishan (later referred to as ‘the deceased’) in a motor vehicle accident on 01.03.2012 with Eicher Canter bearing registration no. UP-16-Q-9991 (later referred to as ‘the offending vehicle’).

2. As the only issue involved in this appeal is enhancement of compensation, detailed facts of the case are being skipped for the sake of brevity.

3. The deceased was 8 years of age at the time of accident and his death. The Tribunal assessed his annual notional income as ₹15,000/- and by applying multiplier of 15 allowed compensation for loss of dependency as ₹2,25,000/- to which a sum of ₹75,000/- was added towards future prospects of the deceased and ₹25,000/- towards funeral expenses.

4. Relying on the observations of Apex Court in case of **Kishan**

**Gopal and another vs. Lal and others, 2014 (1) SCC 244**, learned counsel

for appellants has argued that in that case the deceased was 10 years of age and Apex Court assessed his notional income as ₹30,000/- per annum and awarded compensation of ₹5 lacs. He sought compensation in this case as per observations in ***Kishan Gopal's case (supra)***.

5. Learned counsel for respondent no. 3-Insurance Company has argued that the deceased was 8 years of age while in ***Kishan Gopal's case (supra)***, the deceased was 10 years of age. Apex Court has prescribed income of the deceased in age group of 10 to 15 as ₹30,000/- and same cannot be applied for the age group of 5 to 10 years. The Tribunal has rightly taken notional income of the deceased as ₹15,000/- per annum as per norms prescribed in 2<sup>nd</sup> Schedule attached to Section 163-A of the Motor Vehicles Act.

6. In ***Kishan Gopal's case (supra)***, the accident had taken place in the year 1992 while in this case the accident took place on 01.03.2012 i.e. 20 years after the incident in ***Kishan Gopal's case (supra)***. Apex Court has taken notional income of the deceased in ***Kishan Gopal's case (supra)*** keeping in view his time of death i.e. in the year 1992. If same norms are applied to instant case, notional income of the deceased can be safely taken as ₹30,000/- per annum after 20 years of the incident in ***Kishan Gopal's case (supra)*** and the compensation as awarded in that case can be awarded to claimants in this case as well.

7. As a sequel of my discussion above, the appeal is allowed. Award of the Tribunal is modified and compensation allowed to claimants for death of their son Jai Kishan is enhanced from ₹3,25,000/- to ₹5,00,000/-. The amount of compensation will carry interest @ 7.5% per annum from the date of filing of claim petition till actual realization.

will deposit the amount of compensation in bank account of claimants or pay the same through demand draft.

October 22, 2016  
jk

( SURINDER GUPTA)  
JUDGE

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*