

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 941 of 2013
Date of Decision : 18.11.2016

Roma Chhabra @ Roma Rani

....Appellant

Versus

Ram Kumar and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. R.S. Mamli, Advocate
for the appellants.

Mr. Rajbir Singh, Advocate
for respondent no. 3.

Surinder Gupta, J.

This is appeal by claimant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Yamunanagar (later referred to as 'the Tribunal') for death of Kunal Chhabra @ Nannu (later referred to as 'the deceased') in motor vehicle accident on 30.10.2011 with truck bearing registration no. HR-46-A-8781 (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 12 years of age at the time of accident and his death. The Tribunal assessed his annual notional income as ₹15,000/- and allowed a total compensation of ₹2 lacs.

4. Relying on the observations of Apex Court in case of **Kishan Gopal and another vs. Lala and others, 2014 (1) SCC 244**, learned counsel for appellant 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 Tribunal has rightly taken notional income of the deceased as ₹15,000/- per annum as per norms prescribed in 2nd 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 30.10.2011 i.e. 19 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 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 claimant for death of her son Kunal Chhabra @ Nannu is enhanced from ₹2,00,000/- 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. Respondent no. 3-Insurance Company being insurer of the offending vehicle will deposit the amount of compensation in bank account of claimants or pay the same through demand draft.

November 18, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No