

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

**FAO No.2506 of 2014 (O&M)
Date of decision: 06.12.2017**

Sandeep and another

....Appellants

Versus

Jashwant and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Sheenu Sura, Advocate,
for the appellants.

Mr. Aman Dhir, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal') vide award dated 05.07.2013, on account of death of Nishu in a motor vehicular accident which took place on 12.03.2012. Claimant-appellants are parents of deceased Nishu.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 12.03.2012, after attending a marriage ceremony, Nishu (since deceased) along with her father Sandeep (appellant No.1) and others was coming towards village Dhana Kalan from Village Garhi in an auto-rickshaw. After alighting from the autorickshaw, Nishu and Deepak were standing by the side of road. In the meantime, a bus bearing registration No.HR-39-A-1699 being driven by Jashwant-

respondent No.1 in a rash and negligent manner came from the side of Hansi and struck against Nishu, as a result of which, she (Nishu) died at the spot. With regard to the accident, FIR Ex.P1 was registered against respondent No.1. Consequently, the claimant-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 taken place on account of rash and negligent driving of offending bus by its driver-respondent No.1 and thus, returned the finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of deposition of claimant No.1-Sandeep (PW-1), who was eye witness of the accident and on whose statement, FIR Ex.P1 was registered against respondent No.1. Further, the claimants had proved copy of postmortem report Ex.P2.

Deceased-Nishu was aged about 7 years at the time of death/accident. Ultimately, the claim petition was accepted by the Tribunal and the claimants were found entitled to a lump sum compensation of Rs.2,50,000/- along with interest at the rate of 7.5% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-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. Reference, at this stage, can be made to a judgment passed by Hon'ble the Supreme Court in

Kishan Gopal & another vs. Lala & others, 2013 (5) Law Herald (SC)

4346, wherein the appellants were the parents of deceased Tikaram, a ten year old child, who died in a road accident, which took place on 19.07.1992. Notional income of deceased child was taken as Rs.30,000/- and multiplier of 15 was applied, which came to Rs.4.50 lakhs. In the present case, accident has taken place on 12.03.2012. Therefore, notional income of the deceased can be taken up to Rs.45,000/-. Keeping in view the peculiar circumstances of the case, the compensation is required to be enhanced in view of the judgments passed by Hon'ble the Supreme Court in **Kishan Gopal's** case (supra), **Sarla Verma and others Vs. Delhi Transport Corporation and another,** (2009) 6 SCC 121 and **National Insurance Company Limited Vs. Pranay Sethi and others,** Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017). Hence, the compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Notional income of deceased	Rs.45,000/-
(ii)	Compensation after multiplier of 15 is applied	45,000 x 15 = Rs.6,75,000/-
(iii)	Funeral expenses	Rs.15,000/-
(iv)	TOTAL COMPENSATION AWARDED	Rs.6,90,000/-
(v)	Enhanced amount of compensation	Rs.6,90,000 – 2,50,000 = Rs.4,40,000/-

The enhanced amount of compensation of **Rs.4,40,000/-** 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

06.12.2017
ajp

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No