

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.3697 of 2001
Date of Decision: 14.03.2018

Gurmeet Kaur and another

.....Appellants

Vs.

Joginder Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Sanjiv Gupta, Advocate for the appellant.

Mr.D.P.Gupta, Advocate, for
respondent/Insurance Company.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimant-appellants (for short 'the appellants'), against award dated 08.01.2001, passed by the learned Motor Accident Claims Tribunal, Kaithal (for short, 'the Tribunal') vide which compensation to the tune of Rs.1,60,000/-/- was awarded to the claimant on account of death of the son of the appellants.

FACTS NOT IN DISPUTE

On the night intervening 8/9.03.1999 Parvinder Singh alongwith his mother and other relatives started their journey from District Lakhimpur for their village Kallar Majra in a Jeep bearing Registration No.HR-09-8651, Make Mohindera, being driven by Joginder Singh, respondent No.1. When they reached near Namaste Chowk,G.T.Road, Kaithal, at about 1:00 am, the Jeep struck against a tree as the same being driven by Joginder Singh-Respondent in a very rash and negligent. Hence, all the persons travelling in the Jeep sustained injuries. All the injured were first removed to General Hospital,Kaithal. However, Gurnam Singh, Changa Ram and Partap kaur were shifted to PGI Chandigarh. On 14.03.1999 Partap Kaur and Changa Ram succumbed to the injuries. In support of the their case, claimants

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 6 years old at the time of his death in the accident as he was student of 1st standard. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company. The compensation has been assessed as under:

Sr.No.	Heads of compensation	Amount
1	Notional income Rs.15,000/- as per schedule of MV Act.	Rs.15,000/- per annum.
2.	Deduction 1/3th	Rs.15,000/- --- Rs.5000/-= Rs.10000/-
3.	Total loss of dependency after applying multiplier	Rs.10,000 X 15= Rs.1,50,000/-
4.	Funeral expenses	Rs.2000/-
5.	Transportation and treatment	Rs.8,000/-
	Total	Rs.1,60,000/-

Feeling dissatisfied with the impugned award, the claimants/appellant have preferred the present appeal.

I have heard learned counsel for the parties and perused the case file. The fact of accident is admitted and proved. The deceased died as a result of the accident. Reference can also be made to a latest judgment of this Court in the case of **Kishan Gopal and another vs. Lala Ram and others, 2013(4) RCR (Civil) 276**, wherein the national income of a 10 years old child was taken as Rs.30,000/-, the year of the accident was 1992. But in that case, the accident had taken place in the year 1999 and the age of the deceased at the time of the accident was 6 years.

The judgment in the case of **Kishan Gopal 's case (supra)** is directly applicable to the facts and circumstances of the present case. In this case also notional income of the child is taken as Rs.30,000/- per annum. After applying a multiplier of 18 in view of the ratio of the judgment in the case of **Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 121**, the notional annual income of the deceased comes to Rs.5,40,000/-. Further, an amount of Rs.15,000/- is awarded under conventional heads. Thus the compensation allowed to the

appellants/claimants is enhanced from Rs.1,60,000/- to Rs.5,55,000/-. The enhanced amount of compensation i.e. Rs.3,95,000/- 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 @ 7.5% 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 "***Shri Nagar Mal and others vs. The Oriental Insurance Company Ltd. and others***", Civil Appeal No.448 of 2018 (decided on 19.01.2018). 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

14.03.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No