

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

**FAO No.5958 of 2012 (O&M)
Date of decision: 18.01.2018**

Smt. Parveena and another

....Appellants

Versus

Subhash and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Anirudh Kush, Advocate,
for the appellants.

Mr. A.S. Sidhu, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM Nos.27768 & 27770-CII of 2012

In view of the averments mentioned in the applications, same are allowed and delay in filing & re-filing of the appeal is condoned.

FAO No.5958 of 2012

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as 'the Tribunal') vide award dated 10.03.2011 on account of death of Salim Khan in a motor vehicular accident which took place on 05.01.2008. Appellants are parents of deceased Salim Khan.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 05.01.2008, Salim Khan (since deceased) along with Monu (pillion rider) was going on a bicycle

from village Kami to Barwala. At about 2.45 P.M., when both of them reached near Military Poultry Farm on Dera Bassi to Barwala road, a tractor-trolley bearing registration No.HR-99-A-7686 (Temporary) being driven by respondent No.1-Subhash, came from the side of Sunderpur and struck against the bicycle from behind, as a result of which, both Salim Khan and Monu fell down on the road. Left front tyre of tractor ran over the chest of Salim Khan and he died on the spot. The accident was witnessed by one Hazura Ram. With regard to the incident, FIR Ex.P13, under Sections 304-A/279/337 IPC was registered against respondent No.1 at Police Station, Chandimandir. 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 the offending vehicle by its driver i.e. respondent No.1-Subhash. This finding was rightly given on the basis of deposition of Hazura Ram (PW-6), who was eye witnesses of the accident. Further, the claimants have proved on record FIR Ex.P13 and postmortem report Ex.P14.registered against respondent No.1.

In the absence of any documentary proof, notional income of the deceased was assessed as Rs.15,000/- per annum. As per postmortem report, deceased was 15 years of age at the time of death/accident. Accordingly, multiplier of 15 was applied. After applying the multiplier of 15, dependency of claimants came to Rs.2,25,000/- (15,000/- x 15). In addition to it, Rs.2000/- were awarded on account of funeral charges and Rs.2500/- as loss of estate. Hence, the claimants were found entitled to total

compensation of Rs.2,29,500/- along with interest @ 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. Parties are not in dispute with regard to the findings given by Tribunal on issue No.1 that the accident had taken place due to rash and negligent driving of offending vehicle by respondent No.1. Hon'ble the Supreme Court in **Kishan Gopal and another vs. Lala and others**, 2013 (4) RCR (Civil) 276 case has considered the aspect of notional income with respect to an accident, which related back to the year 1992 and assessed the notional income of a child, who was 10 years old, as Rs.30,000/- per annum. Multiplier of 15 was applied in that case, which came to Rs.4,50,000/-. Following the ratio of the above said judgment, in the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.30,000/- per annum
(ii)	Compensation after multiplier of 15 is applied	Rs.30,000/- x 15 = Rs.4,50,000/-
(iii)	Compensation under the conventional heads	Rs.3,000/-
(iv)	TOTAL COMPENSATION AWARDED	Rs.4,53,000/-
(v)	Enhanced amount of compensation	Rs.4,53,000 – 2,29,500 = Rs.2,23,500/-

The enhanced amount of compensation of **Rs.2,23,500/-** 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 (arising out of SLP (C) No.26853 of 2016) 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

18.01.2018
ajp

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