

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1400 of 2014
Date of Decision: 26.02.2018

Vikas and anr.

.....Appellants

Vs.

Har Lal and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Ashok Kumar Jindal, Advocate, for the appellants.

Mr.R.C.Kapoor, Advocate, for respondent/Insurance Co.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 01.07.2013, passed by the learned Motor Accident Claims Tribunal, Narnaul (for short, 'the Tribunal') vide which compensation to the tune of Rs.2,45,000/- was awarded to the claimants on account of death of Ritika, minor daughter of Vikas.

FACTS NOT IN DISPUTE

On 01.08.2012, Lali Devi along with her son Vikas, her daughter-in-law Manju devi and her grand daughter Ritika (since deceased) was going on Mahindra tractor No.HR-35F-9231 from her village to Lahroda to being fodder for their cattle and the said tractor was being driven by appellant Vikas on his left hand side and at a normal speed and at about 1:00 p.m. when the said tractor alongwith trolley reached village Nangal Sirohi, little ahead of Kherki turn, then one truck bearing No.HR-14E-9919 came from opposite side i.e. from Narnaul side, which was being driven by its driver respondent No.1 Har Lal at a very high speed and in a rash and negligent manner and hit the tractor trolley while going on wrong side and dragged the tractor trolley and as a result of the accident, Lali Devi and Ritika sustained serious injuries and Ritika died at the spot itself and Lali Devi and Ritika were taken to General Hospital, Narnaul where Lali Devi was medicolegally

examined and was given first aid and due to her serious injuries she was

referred to higher centre and thereafter she was taken to SMS Hospital, Jaipur where she got treatment as indoor patient and was operated upon but on 03.08.2012, she expired due to the injuries sustained by her in the accident.

The learned Tribunal has taken the income of the deceased-Ritika as Rs.15,000/- in view of the judgment in the case of **Manju Devi and another Vs. Musafir Paswan and another 2005 ACJ 99 and Jitender Kumar and another Vs. Oriental Insurance Company Limited and another 2010 ACJ 242**. Deceased Ritika was 2 ½ years old at the time of her death and as per second schedule, a multiplier of 15 has been applied. Besides this, Rs.10,000/- on account of loss of love and affection and Rs.10,000/- on account of funeral expenses has been granted. Thus, total amount of compensation comes to Rs.2,45,000/- has been granted to the claimants.

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 be made to a judgment of a Co-ordinate Bench of this court in the case of **Nachhattar Singh and another Vs. Jagga Singh and others, 2016(2)PLR 718**, wherein annual income of the deceased boy, who was 15 years old at the time of the accident, which took place in the year 1999, was assessed as Rs.35,000/- per annum.

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 2012 and the age of the deceased at the time of the accident was 2 ½ years. Since the value of rupee has come down drastically since the year 1992, the notional income was taken as Rs.40,000/-

The judgment in the case of **Kishan Gopal and another's case (supra)** is applicable to the facts and circumstances of the present case. In this case also notional income of the child is taken as Rs.40,000/- p.a.. 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.7,20,000/-. Further, an amount of Rs.15,000/- is awarded under conventional heads. Thus the compensation allowed to the appellants/claimants is enhanced from Rs.2,45,000/- to Rs.7,35,000/-. The enhanced amount of compensation i.e. Rs.4,90,000/- 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

26.02.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No