

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

**FAO No.4085 of 2014 (O&M)
Date of decision: 26.03.2018**

Smt. Seema and another

....Appellants

Versus

Sh. Mangat Ram and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashwani Arora, Advocate,
for the appellants.

Mr. Deepak Suri, Advocate,
for respondent No.2-Insurance Company.

RITU BAHRI J. (Oral)

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 14.11.2013 (passed in MACP No.422/13), on account of death of Ms. Shreya Sharma @ Saria Sharma in a motor vehicular accident which took place on 20.06.2010. Appellants are parents of deceased Shreya Sharma @ Saria Sharma.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 20.06.2010, at about 06.20 P.M., Manoj Kumar Sharma (since deceased) along with his family and relatives namely, Smt. Manju, Ms. Yashika, Master Kartavya, Smt. Seema, Master Hrithik Sharma, Ms. Shreya Sharma @ Saria Sharma, Sh. Anil

Kumar, Master Amit Kumar and Smt. Priyanka were going on the road

leading from Moonak to Sunam in a car bearing registration No. HR-03-J-9145. When they reached near Government High School, Hamirgarh, a car bearing temporary registration No. HR-99-FS-1396 being driven by Babaljit Singh @ Babli in a rash and negligent manner, came from the opposite side and struck against the car No. HR-03-J-9145, as a result of which, all the occupants of the car received multiple and grievous injuries. They were shifted to the hospital. However, Smt. Manju, Mster Hrithik Sharma and Ms. Shreya Sharma @ Saria Sharma succumbed to the injuries at the spot. With regard to the incident, FIR No.95 dated 20.06.2010, under Sections 279/337/338/304-A IPC was registered against driver of the offending vehicle at Police Station, Monak, District Sangrur. 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 vehicle by Babaljit Singh @ Babli, as a result of which Manoj Kumar Sharma, Smt. Manju, Master Hrithik Sharma and Ms. Shreya Sharma @ Saria Sharma died and Master Kartavya, Yashika, Priyanka, Seema, Anil Sharma and Master Amit Kumar received injuries. Thus, finding on issue no.1 was returned in favour of the claimants. This finding was rightly given on the basis of the deposition of Shimla Rani (PW-1), Seema (PW-2), Sh. Ram Kumar (PW-3), Priyanka (PW-4) and Anil Sharma (PW-5). Further, the claimants have proved on record documents Ex.P1 to Ex.P93.

Deceased-Shreya Sharma was aged about 9 years at the time of death/accident and was a student of 2nd standard. The notional income of

deceased was taken as Rs.30,000/- and multiplier of 15 was applied. By doing so, the amount of compensation came to Rs.4,50,000/-. In addition to this, Rs.20,000/- were awarded under the conventional heads. Accordingly, the claim petition was allowed and claimants were awarded compensation of Rs.4,70,000/- 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. At this reference, can be made to a judgment passed by Hon'ble the Supreme Court in **Kishan Gopal and another vs. Lala and others**, 2013 (4) RCR (Civil) 276. In that case, a 10 year old child had died. He used to help his parents in agricultural work. Had the deceased child been alive, he would have contributed substantially to the family of the appellants by working hard. In that case, notional income of deceased child was taken as Rs.30,000/- and multiplier of 15 was applied.

In the present case, accident had taken place on 20.06.2010. Therefore, notional income of the deceased has to be taken as Rs.40,000/-. Accordingly, in the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed 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 (3) RCR (Civil) Page 77 and **National Insurance Company**

Limited Vs. Pranay Sethi and others, Special Leave Petition (Civil)

No.25590 of 2014 (decided on 31.10.2017) as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Notional Income	Rs.40,000/-
(ii)	Compensation after multiplier of 15 is applied	40,000 x 15 = Rs.6,00,000/-
(iii)	Compensation under the conventional heads	Rs.30,000/-
(iv)	TOTAL COMPENSATION AWARDED	Rs.6,30,000/-
(v)	Enhanced amount of compensation	Rs.6,30,000 – 4,70,000 = Rs.1,60,000/-

The enhanced amount of compensation of **Rs.1,60,000/-** 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 (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 allowed.

(RITU BAHRI)
JUDGE

26.03.2018
ajp

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