

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

**F.A.O No. 4149 of 2014
Date of decision:- 15.03.2018**

Meena Devi And Anr. ...Appellants

Versus

Gurmeet Singh and others ...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. K. S. Dhanora, Advocate,
for the appellants.

Mr. Naveen Chopra, Advocate,
for the Ins. Co.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 30.08.2013, on account of death of Parveen Kumar in a motor vehicular accident which took place on 01.12.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 01.12.2010 at about 3.00 P.M., Naresh Kumar son of Karan Singh was standing in front of National Seeds Corporation Godown Hansi Road, Karnal. Sh. Sandeep Kumar son of Ram Jawri was driving the motorcycle No. HR05-Q-6728 and one Parven was also coming on motorcycle from behind, in the meantime, a truck bearing registration No.HR-23-3354 came from Karnal side which was being driven by respondent No.1 in a very high speed, rashly and negligently and hit into Parveen Kumar and also hit in

the motorcycle of Sandeep and crossed the truck over the legs of Parveen and also crossed over the motorcycle of Sandeep and after this, the offending truck dashed against the Indica Car bearing No. HR06N2084, due to this impact, deceased received serious multiple and grievous injuries on his chest as well as on various parts of his body and died due to the serious injuries received in the accident. Parveen was shifted to General hospital, Karnal, from where he was referred to PGI, Chandigarh, where he died on 05.12.2010 due to the injuries suffered in the said accident. Thus, the accident took place due to rash and negligent driving of respondent No.1 while driving the truck bearing registration No. HR-23-3354. In this regard, an FIR No. 1018 dated 01.12.2010, under Sections 279/337 and 304 A of Indian Penal Code was registered at Police Station, City, Karnal.

Consequently, claimants-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 been caused on account of negligent driving of offending vehicle by respondent No.1. Claimants deposed that at the time of accident/death, deceased was 18 years of age and he was student of 10th Class.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. As claimants have claimed that the contribution of the deceased in house hold in doing the labour work and was earning Rs.5,000/- per month. Keeping in view the facts and circumstances of the case, Tribunal awarded Rs.2,00,000/-

as a compensation in favour of claimants who are parents of the deceased with interest at the rate of 9% per annum from the date of filing of petition till its realization.

Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

I have heard learned counsel for the parties and perused the case file.

REASSESSED COMPENSATION

The fact of accident is admitted and proved. In the peculiar facts and circumstances of the case, to meet the ends of justice and compensation awarded by the Tribunal requires to be reassessed keeping in view the judgment passed by Hon'ble Supreme court in case titled as **Kishan Gopal and Anr Versus Lal and Others, 2013 (4) RCR (Civil) 276,** wherein the appellants were the parents of deceased Rikaram, a ten year old child, who died in a road accident which took place on 19.07.1992. Notional income of child was taken at Rs.30,000/-. Multiplier of 15 applied to Rs.30,000/- which came to Rs.4.50 Lakhs. Rs.50,000/- was awarded under conventional heads (i.e. Loss of love and affection, funeral expenses, last rites). Reference in this case was made to a judgment in case of **Lata Wadhwa and Others versus State of Bihar and Others 2001(4) RCR (Civil) 673,** especially with regard to the second schedule to Section 163-A of the M.V. Act for calculating the compensation of victim below the age of 15 years.

In the case of **Krishan Gopal and Another(supra)**, wherein the notional income of a 10 years old child was taken at Rs.30,000/- , the year of the accident was 1992. In the present case, the

accident had taken place in the year 2010 and the age of the deceased at the time of accident was 18 years. Since the value of rupee has come down drastically since the year 1992, the notional income can safely be taken as Rs.40,000/- per annum as deceased was brilliant student and might have bright future. After applying a multiplier of 18, the notional annual income of the deceased comes to Rs.7,20,000/-. Hence this court reassessed the compensation as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Loss of Income	Rs.7,20,000/-
(ii)	Compensation towards conventional head.	Rs.30,000/-
	Total reassessed compensation	Rs. 7,50,000/-
	Enhanced amount of compensation	Rs.7,50,000 -2,00,000=Rs.5,50,000/-

The enhanced amount of compensation of **Rs.5,50,000/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. As per the judgment of Hon'ble Supreme Court in case *Shri Nagar Mal and Ors versus The Oriental Insurance Company Ltd. And Ors decided on 19.01.2018* the enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization. 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.

15.03.2018

(RITU BAHRI)
JUDGE

Riya Grover

Whether speaking/reasoned

Whether reportable

Yes

No