

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No.2834 of 2016

Date of decision : May 18, 2018

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Sunita Devi and another

.....Appellants

Versus

Vijay Pal and others

.....Respondents

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BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Atul Yadav, Advocate for the appellants.

Ms. Vandana Malhotra, Advocate for
respondent no.3-M/s Cholamandalam Ms. General Insurance
Co. Ltd.

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RITU BAHRI, J.

The present appeal has been filed by the appellants-claimants against the award dated 16.11.2015 passed by the Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as `the Tribunal'), whereby the appellants-claimants were held entitled to a compensation of Rs.3,50,000/- on account of death of their 4/5 years old son Tarun. Through this appeal, the appellants have prayed for the enhancement of the amount of compensation.

Briefly stated the facts of the case are that on 16.4.2014, Bhupender Singh, Bijender singh and minor child Tarun (since deceased) were going to their village Mokalwas in a car and when they reached in front of Path Finder School, the offending vehicle (cruiser Taxi) bearing no. HR – 69A-6341 being driven by respondent no.1 rashly and negligently came from front side and hit their car. As a result of the impact Bhupender Singh, Bijedner Singh and minor child Tarun sustained grievous injuries.

Tarun died on the way to the hospital on the same day. With regard to the accident, a case bearing FIR (Ex. P-7) was registered against respondent no.1.

Sunita Devi and Surender Kumar parents of Tarun filed claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of death of their son Tarun.

After hearing the submissions of the counsel and going through the evidence led by the parties, Tribunal held that the accident was caused due to rash and negligent driving by respondent no.1 and as a result of the accident, Tarun died. Reliance was placed upon a judgment of Hon'ble the Supreme Court in the case of **Manju Devi vs. Masafir Paswan 2005 (7) SLT, 257** wherein the notional income of the child, who was 13 years of age, at that time was taken as Rs.15000/- per annum and applying the multiplier of 15, the compensation was assessed as Rs.2,25,000/-. Applying the said authority to the case, the loss of dependency to the appellants-claimants on account of death of Tarun was also assessed to the tune of Rs.2,25,000/- Reliance was also placed on another judgment of Hon'ble the Supreme Court in the case of **Smt. Rajesh and others vs. Rajbir Singh and otehrs 2013 (9) SCC 54** and the compensation on account of loss of love and affection was assessed as Rs.1,00,000 and compensation on account of funeral expenses was assessed as Rs.25,000/-. Thus the appellants-claimants were held entitled to a total compensation Rs.3,50,000/- on account of death of their son Tarun.

Feeling dissatisfied with the impugned award, the claimants-appellants 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 ***Beet Nath and another vs. Gulab Singh and others (FAO No. 159 of 2015)*** decided on ***July 10, 2017***, wherein the notional income of the child who died in an accident which took place in the year 2012 was taken as Rs.50,000/-. It was observed in that case that in the case of ***Kishan Gopal and another vs. Lala and others, 2013 (4) RCR (Civil) 276***, wherein the notional 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 15 years. Since the value of rupee has come down drastically since the year 1992, the notional income in ***Beet Nath's case (supra)*** was taken as Rs.50,000.

The judgment in the case of ***Beet Nath'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.50,000. After applying a multiplier of 15 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.7,50,000. Further, an amount of Rs.15,000/- is awarded under conventional heads.

Thus the compensation allowed to the appellants-claimants is enhanced

from Rs.3,50,000/- to Rs.7,65,000/-. The enhanced amount of compensation i.e Rs.4,15,000/- shall be payable within a period of forty five days 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 a case of *Shri Nagar Mal and Ors Vs. The Oriental Insurance Company Ltd. and others in Civil Appeal No. 448 of 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.

May 18, 2018
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	no