

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.3915 of 2015
Date of Decision:22.03.2018

Smt.Dhanpati @ Dhanwati and anr.Appellants

Vs.

Ram Kumar and othersRespondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.J.P.Jangu, Advocate, for the appellants.

Mr.V.Ramswaroop, 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 30.10.2014, passed by the learned Motor Accident Claims Tribunal, Rewari (for short, 'the Tribunal') vide which compensation to the tune of Rs.1,00,000/- was awarded to the claimant on account of death of Yatin in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 25.03.2013, Yatin, his father Hardeep and mother Priyanka (all since deceased) were going to Village Banipur from village Barani in their vehicle bearing registration No.HR99NS Temp.-6592 (now HRT-7105) and the said vehicle was being driven by Hardeep at a moderate speed. When they reached just ahead of village Silani, the offending vehicle bearing registration No.HR 63A-5955 being driven by respondent No.1 in rash and negligent manner and at a fast speed without observing traffic rules and regulation came from Rewari side and directly hit the vehicle of Hardeep

and thereafter hit vehicle bearing registration No.HR99 Temp.3099 and motor cycle bearing registration No.DL 45A-3917 and due to this impact, Yatin, his father Hardeep and mother Priyanka received serious and major injuries and died on the spot due to serious injuries received by them in the said accident. A bearing FIR No.153 dated 25.03.2013, under Sections 279/337/304A IPC was got registered in PS Jhajjar.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the claimant was 2 years old at the time of his accident. Factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company. The claimants have been granted Rs.1,00,000/- a lump sum compensation.

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to be enhanced, in view of the judgment "**Krishan Gopal and another Vs. Lala and others 2013 (4) RCR (Civil) 276**". On the other hand, the learned counsel for the respondent/Insurance Company have vehemently opposed the present appeal.

As per ratio of judgment of the Hon'ble Supreme Court in the case of **Krishan Gopal (Supra)**, claimants have been granted Rs.5,00,000/- on account of the death of their minor child. As such, in the present case a lump sum compensation of Rs.5,00,000/- is granted to the claimants on account of death of their child-Yatin who was 2 years old at the time of his death. Resultantly, the enhanced amount of compensation of **Rs.4,00,000/- (Rs.5,00,000/- --- Rs. 1,00,000/- = Rs.4,00,000)** 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 Limited and Others passed in Civil Appeal No.448 of 2018**. Remaining conditions of disbursal of amount shall remain unaltered. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

(RITU BAHRI)
JUDGE

22.03.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No