

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.6117 of 2014
Date of Decision:30.04.2018

Birmati and Anr.

.....Appellants

Vs.

Rajwanti and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.S.R.Hooda, Advocate, for the appellants.

Mr.B.S Bairagi, Advocate, for respondents No.1 to 6.

Mr.M.B.Jain, Advocate, for respondent No.8/Insurance Co.

RITU BAHRI, J. (ORAL)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sonapat (hereinafter referred to as 'the Tribunal') vide vide which compensation to the tune of Rs.2,50,000/- was awarded to the claimants on account of death of minor Vikas in a motor vehicular accident.

Brief facts of the case are that on 04.03.2010 at about 8:30 p.m. Narender Singh son of Dharambir resident of village Mahlana and Dharambir son of Maha Singh resident of Shastri Colony, Sonapat were going to Sonapat from Mehlana in their No.DL3C-Y-0149. At about 3:30 p.m., when they reached near the water tank, Mehlana Road, Sonapat, a motorcycle bearing No.Hr 10-K-2141 was going ahead of the above said car being driven by one Deepak son of Seharjram resident of Khandwali, Tehsil and District Rohtak having pillion riders Vikas son of Ramdhan, since deceased and one Monu son of Suresh resident of Mehlana, District Sonapat. In the meantime, Puran son of Dariya resident of Mehlana came from the side of Sonapat on his motorcycle No.HR33-A-2486 having pillion rider raj son of Ghasi Ram resident of Mehlana. The offending vehicle was being driven by Puran in a rash and negligent manner and with a fast speed and dashed his motorcycle into the motorcycle driven by Deepak, upon which,

both the motorcycle fell down on the road and Vikas, Puran and Raj and Monu sustained injuries. All the injured were shifted to General Hospital, Sonapat in their car for treatment, where Vikas was declared dead and Monu, Raj and Puran were referred to PGIMS, Rohtak for treatment. A case bearing FIR No.82 dated 04.03.2010 was registered under Sections 279/337/304A IPC at Police Station, City Sonapat on the statement of Narender Singh.

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 Coordinate 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 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 2014 and the age of the deceased at the time of the accident was 8 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 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.9,00,000/-. Further, an amount of Rs.15,000/- is awarded under conventional heads. Thus the compensation allowed to the appellants/claimants is enhanced from Rs.2,50,000/- to Rs.9,15,000/-. The enhanced amount of compensation i.e. Rs.6,65,000/- 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

30.04.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No