

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 6879 of 2015

Date of Decision: November 27 , 2018.

Tek Chand and another APPELLANT (s)

Versus

Munesh and another RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ashok Kaushik, Advocate
for the appellants.

Mr. Sandeep Kotla, Advocate
for respondent No.2.

LISA GILL, J.

This appeal has been filed by the claimants, who are parents of the deceased, seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Palwal (for short, the 'Tribunal') vide impugned award dated 15.01.2015 on account of death of Bunti in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that, the claimants filed a petition under Section 166 of the Motor Vehicles Act (for short, the 'Act') seeking compensation on account of the death of Bunti, who lost his life in a motor vehicle accident which took place on 01.02.2014. FIR No.46 dated 01.02.2014 under Sections 279/337/304A IPC was registered against respondent No.1 on the statement of PW3-Tek Chand. The deceased was a 16 ½ year old boy, studying in Class X. He is claimed to be earning ₹10,000/- per month by

giving tuitions. Compensation was thus prayed for.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of bus bearing registration No. UP-81AF-1776 by respondent No.1 – Munesh. The said finding of the learned Tribunal has attained finality.

Learned Tribunal awarded a sum of ₹4,16,000/- as compensation to the claimants vide impugned award dated 15.01.2015. Notional income of the deceased was assessed as ₹15,000/- per annum. Multiplier of 16 was applied. ₹75,000/- each towards future prospects and non-pecuniary damages, besides, ₹26,000/- on account of medical expenses on the basis of evidence proved on record.

Learned counsel for the appellants submits that the learned Tribunal has erred in assessing the notional income of the deceased to be ₹15,000/- per annum and multiplier of 16 has been wrongly applied. He relies upon the judgment of this Court in FAO No.3964 of 2014 (Chet Ram and another v. Gautam Kumar and others) dated 21.09.2017, to submit that notional income of the deceased should at least be assessed as ₹50,000/- per annum. It is thus prayed that the compensation be re-worked accordingly.

Learned counsel for respondent No.2 vehemently opposed any enhancement of the compensation awarded by the learned Tribunal while submitting that just and reasonable compensation has been awarded which calls for no enhancement. He relies upon decision of this Court in FAO No.228 of 2003 (Gian Singh and another v. Suresh and others) dated 21.05.2018. It is thus prayed that the impugned award dated 15.01.2015 be upheld.

I have heard learned counsel for the parties and have gone through the file.

Liability of respondent No.2 is not in dispute and neither is there a dispute regarding the accident being caused by the rash and negligent act of respondent No.1 in which Bunti, who was a 16½ year old boy lost his life on 01.02.2014. He was unmarried and admittedly a student of Class X at the time of his death. This Court in FAO No.3964 of 2014 (Chet Ram and another v. Gautam Kumar and others) dated 21.09.2017 while dealing with a similar matter has assessed the notional income of a deceased student as ₹50,000/- per annum in respect to an accident which took place in the year 2011. Specific reference was made therein to the judgment of the Hon'ble Supreme Court in the case of **Krishan Gopal and another v. Lala and others, 2013(4) RCR (Civil) 276**, wherein notional income of a ten years old child was assessed to be ₹30,000/- per annum. Accident in the said case had occurred in the year 1992. Reference was also made to the decision of the Hon'ble Supreme Court in **Lata Wadhwa v. State of Bihar, 2001(4) RCR(Civil) 673** especially with regard to the Second Schedule to Section 163A of the Act for calculating compensation in case of a victim below 15 years of age. In the case of Gian Singh and another v. Suresh and others FAO No.228 of 2003, relied upon by learned counsel for respondent No.2, controversy revolved around the death of a 20 year old unmarried person which occurred in a motor vehicle accident on 17.08.1999. Therefore, the said decision is not applicable in the facts and circumstances of the present case.

Keeping in view the factual matrix of the present case, it is considered just and appropriate to assess the notional income of the deceased to

be ₹50,000/- per annum instead of ₹15,000/- per annum as assessed by the learned Tribunal. Multiplier of 18 is to be applied in view of the guidelines laid down by the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**, 2009(3) RCR (Civil) 77. ₹15,000/- each towards funeral expenses and loss of estate are awarded to the appellants. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.**, in Civil Appeal No.9581 of 2018 decided on 18.09.2018, both the appellants are entitled to ₹40,000/- each on account of loss of parental consortium. Sum of ₹26,000/- awarded by the learned Tribunal on account of medical expenses is maintained.

Appellants-claimants are, thus, entitled to compensation which is re-worked as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	50,000 p.a.
2.	Total dependancy after applying a multiplier of 18	(50,000 x 18) = 9,00,000
3.	Loss of estate	15,000
4.	Funeral expenses	15,000
5.	Loss of consortium	(40,000 x 2) = 80,000
6.	Medical expenses	26,000
Grand Total		₹10,36,000/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Appellants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of the petition till realization. Ratio of apportionment amongst the appellants as well as manner of disbursement as determined by the learned

Tribunal shall remain the same.

Appeal is accordingly disposed of.

November 27 , 2018.
'om'

(LISA GILL)
JUDGE

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