

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.6192 of 2016 (O&M)

Date of Decision:03.04.2018

Ramesh and others

.....Appellants

Vs.

Hari Om and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Arun Singal, Advocate, for the applicant/appellants.

Mr.Vinod Gupta, Advocate, for the respondent/Insurance Co.

RITU BAHRI, J. (ORAL)

CM No.21098-CII of 2016

For the reasons stated in the application, delay of 590 days in filing the appeal is condoned.

Application stands disposed of.

Main Case

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 09.01.2013, passed by the learned Motor Accident Claims Tribunal, Panipat (for short, 'the Tribunal') vide which compensation to the tune of Rs.2,00,000/- was awarded to the claimants on account of death of Akshay in a motor vehicular accident.

On 09.01.2013, the deceased Akshay and Kewal were coming on a motor cycle from Panipat towards Gohana. Kewal was driving motorcycle. When they reached near village Mehrana a trolly bearing No.HR-46C-6481 being driven by respondent No.1 rashly and negligently came from Panipat side and hit the motor cycle directly. As a result of the accident both

suffered injuries and died. A case FIR No.21 dated 09.01.2013 for the

offence under Sections 279 and 304-A IPC has been registered in the Police Station Model Town, Panipat.

The Tribunal held that the deceased was 12 years old and studying in 6th Class in Govt. School, Didwari, District Panipat. In the present case claimants have been awarded a lump sum amount of Rs.2,00,000/- in total compensation.

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 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 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 2013 and the age of the deceased at the time of the accident was 12 years. Since the value of rupee has come down drastically since the

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.2,00,000/- to Rs.9,15,000/-. The enhanced amount of compensation i.e. Rs.7,15,000/- 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

03.04.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No