

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.8143 of 2016

Date of decision: 15.05.2018

Sarabjit Kaur and anr.

....Appellants

Versus

Rajinder Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr.Arun Abrol, Advocate, for the appellants.

Mr.R.K.Arya, Advocate, for respondent No.2.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Gurdaspur (hereinafter referred to as 'the Tribunal') vide award dated 13.07.2016 on account of death of Simranjit Kaur in a motor vehicular accident which took place on 01.09.2011.

Brief facts of the case are that on 01.09.2011 at about 11:00 AM Muskan and Simranjit Kaur both minors were going to their Haveli nearby house towards their grand mother and claimant Palwinder Singh son of Surjit Singh R/o Village Nurpur was also following them at the very short distance. A tractor bearing its registration No.UPQ-6211 mark From colour blue and while came from the Firni (passage) side being driven by respondent No.2 namely Gurjit Singh son of Ravail Singh R/o village Nurpur on a very high speed in a rash and negligent manner who suddenly turned the tractor on the turn and the tillers of the tractors hit the deceased Simranjit Kaur (minor) she fell on the grounds and Gurjit Singh respondent No.2 fled from the spot alongwith the offending tractor. This who occurrence has been witnessed by the Palwinder Singh with his naked eyes. Then Palwinder Singh arranged the vehicle and took the deceased Simranjit Kaur to Civil Hospital, Batala where the doctor declared died. An FIR No.102 dated 01.09.2011, for the offence under sections 279, 304-A IPC was registered at P.S.Sri Hargobindpur, Tehsil Batala, Distt. Gurdaspur.

In the present case claimants have been awarded a lump sum amount of Rs.1,00,000/- 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 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.40,000/-. 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.7,20,000/-. Further, an amount of Rs.15,000/- is awarded under conventional heads. Thus the compensation allowed to the appellants/claimants is enhanced from Rs.1,00,000/- to Rs.7,35,000/-. The enhanced amount of compensation i.e. Rs.6,35,000/- 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

15.05.2018
anil

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>