

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

**F.A.O No. 5179 of 2014
Date of decision:- 22.02.2018**

Suresh and Ors

...Appellants

Versus

Paramjit and others

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ved Parkash, Advocate,
for the appellant.

Mr. R.C. Kapoor, Advocate,
for Insurance Company.

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 award dated 24.08.2016, on account of death of Asha in a motor vehicular accident which took place on 15.05.2012.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 15.05.2012, the petitioner Sarita along with her sister, Asha, since deceased, and elder brother Vijay was coming back from Government School of Village Khewra, District Sonapat to their house. Some other students were also coming with them. At about 2 pm they reached near the fields of Virender son of Rameshwar at village Khewra, Bahalgarh road. In the meantime, the offending vehicle i.e. Scorpio No. HR14-H-1199 being driven by respondent No. 1 in a rash and negligent manner, came from

opposite side and struck against deceased Asha, petitioner Sarita and some other students namely Anuj and Neha. Thereafter, the offending vehicle turned turtle. In the accident, the petitioner sustained injuries on her head. Deceased Asha sustained injuries on her hand and legs. In this regard, an FIR NO. 154 dated 15.05.2012 was registered against respondent No. 1 in the police Station, Rai, under Sections 279/337/338/304-A IPC.

Consequently, claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of negligent driving of offending vehicle by respondent No.1. Claimants deposed that at the time of accident/death, deceased was 13 years of age and she was student of 7th Class.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. As claimants have claimed that the contribution of the deceased in house hold works was Rs.2,000/- per month. In the facts and circumstances of the case, Tribunal assess notional income of the deceased at Rs.24,000/- per annum and multiplier of 15 was applied. Hence, Tribunal assessed the compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Loss of income	Rs.3,60,000/-
(ii)	Compensation towards funeral expenses	Rs.25,000/-
(iii)	Compensation towards Loss of love and affection	Rs.75,000/-
	Total Compensation	Rs. 4,60,000/-

Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

I have heard learned counsel for the parties and perused the case file.

REASSESSED COMPENSATION

The fact of accident is admitted and proved. In the peculiar facts and circumstances of the case, to meet the ends of justice and compensation awarded by the Tribunal requires to be reassessed keeping in view the judgment passed by this court in case titled as **Kishan Gopal and Anr versus Lal and Others, 2013 (4)RCR (civil) 276,** wherein the appellants were the parents of the deceased Rikaram, a ten year old child, who died in a road accident which took place on 19.07.1992. Notional income of the child was taken at Rs.30,000/- which came to Rs.4.50 Lakhs. Rs. 50,000/- was awarded under Conventional heads (i.e. Love of love and affection, funeral expenses and last rites). Reference in this case was made to a judgment of **Lata Wadhwa and others versus State of Bihar and others 2001(4) RCR (Civil) 673,** especially with regard to the second schedule to Section 163-A of the M.V. Act for calculating the compensation of victim below the age of 15 years.

In the case of **Krishan Gopal and Another (Supra)** wherein the notional income of a 10 years old child was taken at Rs. 30,000/-, the year of the accident was 1992. In the present case, the accident had taken place in the year 2012 and the age of the deceased at the time of accident was 13 years. Since the value of rupee has come down drastically since the year 1992, the notional income can safely be

taken as Rs.40,000/- per annum as deceased was brilliant student and might have bright future. After applying a multiplier of 15, notional income of the deceased comes to Rs.6,00,000/-. Hence this court reassessed the amount of compensation as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Notional Income	Rs.6,00,000/-per annum
(ii)	Compensation towards funeral expenses	Rs.25,000/-
(iii)	Compensation towards Loss of love and affection	Rs.75,000/-(compensation awarded by the Tribunal in the heads of ii and iii will remain same)
	Total reassessed compensation	Rs. 7,00,000/-
	Enhanced amount of compensation	Rs.7,00,0000 -4,60,000=Rs.2,40,000/-

The enhanced amount of compensation of **Rs.2,40,000/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. As per the judgment of Hon'ble Supreme Court in case **Shri Nagar Mal and Ors versus The Oriental Insurance Company Ltd. And Ors decided on 19.01.2018** the enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization. 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.

22.02.2018

(RITU BAHRI)
JUDGE

Riya Grover

Whether speaking/reasoned

Whether reportable

Yes

No