

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5880 of 2017

Date of Decision: 19.04.2018

Sanjay Kumar and anr.

.....Appellants

Vs.

Mahabir Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Raghav Sharma, Advocate, for the appellants.
Mr.Deepka Goyal, Advocate, for respondent No.2.
Mr.Vinod Gupta, Advocate, for respondent/Ins.Co.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 18.01.2017, passed by the learned Motor Accident Claims Tribunal, Kurukshetra (for short, 'the Tribunal') vide which compensation to the tune of Rs.4,25,000 was awarded to the claimants on account of death of Aksit in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 20.03.2014, at about 2:30 p.m. Akshit, since deceased, along with other Chied Ankush @ Vicky was playing in village Niwarsi, near house of his maternal grand father. In the mean time, offending tractor bearing registration No.HR-05-AE-5677 being driven by respondent No.1 in a rash and negligent manner and at a high speed came and struck against the deceased after coming on the wrong side of the road/street. The above named Akshit as a result suffered fatal, serious and grievous injuries. After the accident, he was shifted to Civil Hospital, Ladwa where he was declared dead. Thus it is alleged that accident took place due to sole rash and negligent driving of respondent No.1 and consequently, case FIR No.53 dated 20.03.2014 for the offence under Sections 279, 304-A IPC was registered against respondent No.1 at Police Station Ladwa. As such, the parties are not disputing on the findings of issue No.1.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 7 years old at the time of his death in the accident. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company. The compensation has been assessed as under:

Sr.No.	Heads of compensation	Amount
1	Notional income	Rs.15,000/- per annum.
2.	Total loss of dependency after applying multiplier	Rs.15,000/- X 15= Rs.2,25,000/-
3.	Future prospect	Rs.2,00,000/-
	Total	Rs.4,25,000/-

Learned counsel for the claimant-appellants contends that the compensation awarded by the Tribunal is on the lower side and deserves to be enhanced, in view of the judgment "**Chet Ram and another vs. Gautam Kumar and others passed in FAO No.3964 of 2014** wherein, a child has died in the motor vehicular accident on 07.11.2013 and he was 8 years old. On the other hand, the learned counsel for the respondents have vehemently opposed the present appeal.

RE-ASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the record.

This Court is following the ratio of judgment in the case of **Krishan Gopal and another Vs. Lala and others, 2013 (4) RCR (Civil) 276**, wherein, notional income of the child has been taken as 30,000/- and multiplier of 15 was applied as deceased was 10 years old child as the accident has taken place way back in the year 1992. Since, in the present case, accident has taken place on 20.03.2014, notional income of the child is taken as Rs.50,000/- per annum.

It is not in dispute that the offending vehicle was fully insured with the Insurance company. Following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgment, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Notional income	Rs.50,000/- per annum.

2.	Total loss of dependency after applying multiplier	Rs.50,000/- X 15= Rs.7,50,000/-
3.	Non pecuniary damages in view of the judgment i.e. R.K.Malik Vs. Kiran Pal, III(2006) ACC 261.	Rs.75,000/-
	Total	Rs.8,25,000/-
	Enhanced amount of compensation	Rs.8,25,000/- ---- Rs.4,25,000/-= Rs.4,00,000/-

Resultantly, the enhanced amount of compensation of Rs.4,00,000/- shall be payable within a period of forty five days 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 a case of **Shri Nagar Mal and Ors. Vs. The Oriental Insurance Company Limited and Others passed in Civil Appeal No.448 of 2018**. Remaining conditions of disbursal of amount shall remain unaltered. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

(RITU BAHRI)
JUDGE

19.04.2018
anil

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