

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No. 7140 of 2017

Date of decision : April 26, 2018

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Reena Kanwar and another

.....Appellants

Versus

Gautam Ray and others

.....Respondents

FAO No. 7143 of 2017

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Reena Kanwar and another

.....Appellants

Versus

Gautam Ray and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: None for the appellants.

Ms. Vandana Malhotra, Advocate for
respondent no.3-United India Insurance Co. Ltd.

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RITU BAHRI, J.

Both these appeals (FAO No. 7140 of 2017 and FAO No. 7143 of 2017) shall be decided through this common judgment as same parties are involved in both these appeals and a similar question of law arises for consideration in both of them.

The present appeals have been filed by the appellants against

the award dated 27.02.2017 passed by the Motor Accident Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal'), whereby the appellants were held entitled to a compensation of Rs.3,50,000/- each in the claim petitions filed on account of death of both of their sons Mohit and Akash who were 8 years old and 6 years old, respectively. Through these appeals, the appellants have prayed for the enhancement of the amount of compensation.

Briefly stated the facts of the case are that on 19.6.2016, at about 10:00 am, children Lalit, Ravinder, Mohit and Akash (since deceased) were standing on the side of the road on Kachha berm in the area of village Khol and, in the meantime, a Trolly bearing registration No. RJ-01-GA-6705 (hereinafter referred to as 'the offending vehicle') came from the side of Village Khol in a rash and negligent manner and at a very high speed and driver (respondent no.1) of the said offending vehicle crossed over the offending vehicle on the left side of the road on kachha berm. Due to this impact, said four children Lalit, Ravinder, Mohit and Akash were crushed under the trolly and thereafter, they were brought to General Hospital, Rewari, where they were declared brought dead. In this background, a case bearing FIR No.148 dated 19.6.2016 under Sections 279 and 304-A IPC was registered at Police Station Khol District Rewari against respondent no.1.

Reena Kanwar and Sudhir Singh parents of Mohit and Akash filed petition No.108 of 2016 to claim compensation on account of death of Mohit and Petition No.108-A of 2016 to claim compensation on account of death of Akash under Section 166 of the Motor Vehicles Act, 1988 .

After hearing the submissions of the counsel and going through

the evidence led by the parties, Tribunal held that the accident was caused due to rash and negligent driving by respondent no.1 and as a result of the accident, Lalit, Ravinder, Mohit and Akash died. Reliance was placed upon a judgment of Hon'ble the Supreme Court in the case of **Manju Devi vs. Masafir Paswan 2005 (7) SLT, 257** wherein the notional income of the child, who was 13 years of age, at that time was taken as 15000/- per annum and applying the multiplier of 15, the compensation was assessed as 2,25,000/-. Reliance was also placed on another judgement of Hon'ble the Supreme Court in the case of **Smt. Rajesh and others vs. Rajbir Singh and otehrs 2013 (9) SCC 54** and the compensation on account of loss of love and affection was assessed as Rs.1,00,000 and compensation on account of funeral expenses was assessed as Rs.25,000/-. Thus the claimants were held entitled to a total compensation Rs.3,50,000/- each in both the claim petitions.

Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeals.

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 and others, 2013 (4) RCR (Civil) 276***, wherein the notional 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 2012 and the age of the deceased at the time of the accident was 15 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.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.3,50,000/- to Rs.9,15,000/- each on account of death of both of their sons. The enhanced amount of compensation i.e Rs.5,65,000/- in each case 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 Ltd. and others in Civil Appeal No. 448 of 2018***. Remaining conditions of disbursal of amount shall remain

unaltered.

Accordingly, the award stands modified to the above extent and the present appeals are partly allowed.

April 26, 2018

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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes