

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

**1. Date of decision: 22.08.2019
FAO No.691 of 2019 (O&M)**

National Insurance Company Ltd.

....Appellant

Versus

Nidhi Sharma and others

....Respondents

2. FAO No.696 of 2019 (O&M)

National Insurance Company Ltd.

....Appellant

Versus

Neha Sharma and others

....Respondents

3. FAO No.698 of 2019 (O&M)

National Insurance Company Ltd.

....Appellant

Versus

Nidhi Sharma and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vinod Gupta, Advocate,
for the appellant-Insurance Company.

Mr. Munish Gupta, Advocate,
for respondent Nos.1 & 2.

RITU BAHRI J. (Oral)

This judgment shall dispose of FAO No.691 of 2019, FAO

No.696 of 2019 and FAO No.698 of 2019 together as common questions of

law and facts are involved in all the appeals.

FAO No.691 of 2019 has been filed by National Insurance Company Ltd. (Insurer of offending vehicle) against the award dated 25.07.2018 passed by the Motor Accident Claims Tribunal, Hoshiarpur in MAC Petition No.53 of 24.05.2017, whereby compensation of Rs.6,50,000/- has been awarded in favour of claimants-respondent Nos. 1 and 2 on account of death of their minor daughter Surbhi (aged seven years) in motor vehicular accident, which took place on 07.04.2017.

FAO No.696 of 2019 has been filed by the appellant (Insurance Company) against the award passed by the same Tribunal on even date, in Claim Petition No.47 of 09.05.2017, whereby compensation of Rs.6,50,000/- has been awarded in favour of claimants-Neha Sharma & Anil Kumar (respondent Nos.1 & 2 herein) on account of death of their minor son Tanishq (aged 10½ years) in the same accident.

FAO No.698 of 2019 has been filed by the appellant (Insurance Company) against the award passed by the Tribunal on even date, in Claim Petition No.52 of 24.05.2017, whereby compensation of Rs.6,50,000/- has been awarded in favour of claimants-Nidhi Sharma and Rhit Kumar (respondent Nos.1 & 2 herein) on account of death of their minor son Anirudh (aged 5 years) in the same accident.

Brief facts of the case are that on 07.04.2017, deceased Surbhi along with Tanishq, Anirudh, Shivam Thakur, Shivani Thakur, Priya, Palak, Vardan Sharma, Navaya, Rajesh Sharma, Radhia, Sardhan, Nishan Sharma, Changan Sharma and other students, was going to GEMS Cambridge International School, Dasuya, District Hoshiarpur, on bus No. PB-07-Y-4480, which was being driven by Ranjit Singh. At about 7.50/8.00 A.M.,

when the bus reached a little ahead of *Adda* Singhpur, in the meantime, Mahindra Jeep bearing No. PB-07-AS-7536, being driven by Kulwant Singh-respondent No.3 (respondent No.1 in claim petition) in a rash and negligent manner, came from the opposite side and struck against the driver side of the bus, as a result of which, the bus was badly damaged and many students, including driver, received serious injuries. Injured were taken to Civil Hospital, Dasuya, but Tanishq, Surbi, Anirudh and Ranjit Singh-driver succumbed to the injuries on the way to hospital. With regard to the accident, FIR No.20 dated 07.04.2017, under Section 304-A of IPC was registered against driver of offending vehicle at Police Station, Hajipur on the statement of eye witness Anil Kumar. Consequently, claimants filed separate claim petitions before the Tribunal.

On the basis of evidence led by the parties, Tribunal came to a conclusion that the accident had taken place on account of rash and negligent driving of the offending vehicle by its driver and thus, returned finding on issue No.1 in favour of the claimants. Ultimately, the claim petitions were allowed and compensation was awarded as detailed above. Feeling dissatisfied with the impugned awards, Insurance Company-appellant has filed the present appeals.

The appellant is challenging the impugned award on the question of quantum of compensation.

Heard, learned counsel for the parties.

A perusal of the impugned awards shows that the compensation has been awarded by the Tribunal while making reference to a judgment passed by Hon'ble the Supreme Court in **Kishan Gopal and another vs. Lal and others**, 2014 (1) SCC 244. This was a case of death of minor child in

the year 1992, who was aged about 10 years. Notional income of deceased child was taken as Rs.30,000/- and multiplier of 15 was applied.

Thereafter, this Court in **Beet Nath and another vs. Gulab Singh and others**, FAO No.159 of 2015 (decided on 10.07.2017), has taken the notional income of deceased child as Rs.50,000/-. This was a case, where the accident had taken in the year 2012 and age of the deceased at the time of accident was 15 years. Since the value of rupee has come down drastically since the year 1992, the notional income was taken as Rs.50,000/-.

In the present cases, notional income of school going deceased-children has been taken as Rs.40,000/- each. In view the judgment passed by this Court in **Beet Nath's** case (supra), this Court is of the view that notional income of deceased children has been rightly taken by the Tribunal while assessing the compensation. No ground is not made out to interfere therein. The evidence has been appreciated in the right perspective.

Resultantly, finding no merits, all the appeals i.e. FAO No.691 of 2019, FAO No.696 of 2019 and FAO No.698 of 2019 are dismissed.

(RITU BAHRI)
JUDGE

22.08.2019
ajp

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