

FAO No.1921 of 2001 (O&M)

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

FAO No.1921 of 2001 (O&M)
Date of decision: 10.09.2019

Chandro @ Chandermukhi and another

.....Appellants

versus

Krishan Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Sandeep Kotla, Advocate, for the appellants.
Mr. K.S. Brar, Advocate,
for Mr. I.S. Brar, Advocate, for respondents No.1 and 2.
Ms. Shamsheer Kaur, Advocate, for respondent No.3.

RAMENDRA JAIN, J. (ORAL)

Through this appeal claimants have sought enhancement of compensation, modifying impugned award dated 21.07.2000 of the Motor Accident Claims Tribunal, Hisar (in short 'the Tribunal').

Briefly, in the day time of 10.05.1997, Anu a minor aged around 14 years, studying in 7th class, was knocked down by offending four wheeler bearing registration No.HR-39-1593, while he was waiting for a bus at bus stand of Village Mangali. As a result thereof, minor Anu succumbed to his injuries after six days during hospitalisation in Holy Hospital, Hisar.

With these broad submissions, appellants-claimant filed claim petition under Section 166 of the Motor Vehicles Act, 1988 on account of death of minor Anu.

The Tribunal after holding trial awarded compensation of

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Rs.1,17,000/- to the appellants-claimant along with interest at the rate of 12% per annum from the date of filing claim petition till realization.

Learned counsel for the appellants relying upon **Krishan Gopal and another v. Lala and others**, 2013(4) R.C.R.(Civil) 276 (S.C.) inter alia contends that appellants are entitled to compensation of ₹5,00,000/- i.e. ₹4,50,000/- towards loss of income and ₹50,000/- towards loss of love and affection.

Refuting above submissions, relying upon judgments in **Piara Singh and others v. Satpal Kumar and others** 2006(4) R.C.R.(Civil) 546 (P&H), **Reshma Kumari and others v. Madan Mohan and another**, 2013 ACJ 1253 (S.C.) and **Palo v. Rajesh Sahni and another**, 2018 ACJ 2465 (P&H) learned counsel for respondent No.3 – Insurance Company contends that appellants are entitled to total compensation of ₹2,45,000/- less compensation of ₹1,17,000/- already awarded by the Tribunal, which comes to ₹1,28,000/-.

A Co-ordinate Bench of this Court in **Palo (supra)** on the basis of dictum laid down by the Hon'ble Supreme Court in **Puttamma v. K.L. Narayana Reddy**, 2014 ACJ 526, taking income of minor, a non-earning person, took notional income of ₹15,000/-, and applying multiplier of 15 awarded ₹2,25,000/- towards loss of dependency.

The judgment in **Puttamma (supra)** is later in time to the judgment of **Krishan Gopal (supra)**. Therefore, ignoring **Krishan Gopal (supra)** ratio laid down in **Puttamma (supra)**, has to be applied.

According to the **Puttamma (supra)**, appellants are entitled to ₹2,25,000/- towards loss of dependency on applying multiplier of 15 to the

notional income of deceased Anu, besides ₹20,000/- towards medical and

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funeral expenses. Therefore, appellants are entitled to ₹2,45,000/- out of which they have already been awarded ₹1,17,000/-. Thus, in all they are held entitled to ₹1,28,000/- over and above the compensation awarded by the Tribunal.

Respondent No.3 – Insurance Company is directed to deposit the amount of ₹1,28,000/- aforesaid along with interest at the rate of 7.5% from the date of filing claim petition till realization, within one month from today before the Tribunal for onward disbursement of the same to the appellants in proportion so arrived at by the Tribunal in accordance with law against proper receipt and identification.

In case aforesaid amount is not deposited within stipulated time, Insurance Company would be liable to pay the same with interest @15% from the date of institution of claim petition till realization.

Disposed of.

(Ramendra Jain)
Judge

September 10, 2019
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No