

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

FAO No. 5983 of 2019 (O&M)
Date of decision: 10.12.2019

United India Insurance Company Limited

...Appellant

Versus

Smt. Jaswinder Kaur @ Bakhshis Kaur and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Ram Avtar, Advocate,
for the appellant.

JAISHREE THAKUR, J.

This appeal seeks to challenge the award dated 21.2.2019 passed by the Motor Accident Claims Tribunal, Chandigarh, wherein the claimants have been allowed compensation of ₹4,65,000/- on account of death of Gurkirat.

In brief, the facts are that on 18.10.2016, deceased Gurkirat Singh, aged about 3 years, along with his father Gurmail Singh and others, was coming in a car from Amritsar to Talwandi Bhai, District Ferozepur. At about 3.30 p.m. when they reached near village Malsian Makhu Road, Zira, a truck trolly bearing registration No. PB-13-Q-7705, being driven by its driver in rash and negligent manner, struck against the car. As a result of which all the occupants of the car received serious injuries. Gurkirat was referred to DMC Hospital, Ludhiana, where he expired on 23.10.2016.

Consequently FIR 164 dated 18.10.2016, under Sections 279, 337, 304-A,

338 and 427 IPC came to be lodged with the Police Station Zira, District Ferozepur.

On account of the death of Gurkirat Singh, a claim petition was filed by the claimants. The claim petition was contested. Both the parties led evidence in support of their respective claims. However, the Tribunal, after appreciating the oral as well as documentary evidence, held that the accident was caused by the driver of the offending vehicle in as rash and negligent manner, resulting into the death of the deceased and thereafter proceeded to assess the income. The Tribunal following the law laid down in **Oriental Insurance Company Limited through its Deputy Manager Vs. Pinki and others 2016 (1) PLR 446** assessed the notional income of the deceased at ₹30,000/- and after applying multiplier of 15 as set out in the Second Schedule to the Motor Vehicles act, 1988, awarded compensation to the extent of ₹4,50,000/-. Apart from that the Tribunal awarded ₹15,000/- on account of funeral expenditure and thus a total sum of ₹4,65,000/- was awarded.

Learned counsel for the appellant, while challenging the award, has only argued that the Tribunal has wrongly assessed notional income of the deceased at ₹30,000/- per annum, which is on the higher side. It is submitted that the Hon'ble Supreme Court in **Kishan Gopal Versus Lala 2013 (4) RCR (Civil) 276** has considered the notional income at the rate of ₹30,000/- per annum in the case of death of a child aged more than 10 years, whereas in the present case the deceased was only three years of age at the time of accident and, therefore, notional income ought to have been taken at the rate of ₹15,000/- per annum, in terms of the judgments in **UIIC Vs.**

Harpreet Kaur (FAO No. 2911 of 2018) and Shanti Devi Vs. Rakesh Kumar (2017 (2) PLR 562).

The factum of the accident is admitted. The Tribunal, while assessing the notional income, has discussed various case laws in great detail. In the case of **Kishan Gopal (supra)**, the Hon'ble Supreme Court made reference to the judgment in the case of **Lata Wadhwa and others Vs. State of Bihar and others 2001 (4) RCR (Civil) 673**, especially with regard to Second Schedule to Section 163-A of the Motor Vehicle Act for calculating the compensation of a victim below the age of 15 years. Hon'ble Supreme Court proceeded to take the notional income at ₹30,000/-. This was done keeping in view that the rupees value has come down drastically from the year 1994 when the notional income of non earning member prior to the date of accident was fixed at ₹15,000/- per annum.

I find no illegality or infirmity in the order passed by the Tribunal. In the case of **Kishan Gopal (supra)**, the accident took place in the year 1992, whereas in the present case the accident has taken place on 18.10.2016. In this view of the matter, the Tribunal has rightly assessed the compensation payable to the claimants, particularly in view of the judgment in **Pinki's case (Supra)**.

Consequently, the instant appeal is dismissed.

10.12.2019

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**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes
No