

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

F.A.O. No. 5643 of 2011

DATE OF DECISION :- September 11, 2019

Balraj Mittal and others

...Appellants

Versus

Rohtash and others

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Vaibhav Jain, Advocate for the appellants.

Mr. R.K. Sharma, Advocate
for respondent No. 3-Insurance Company.

On account of death of Ms. Preeti, aged about 17 years, a student of 10+2 class in a road side accident which took place on 28.8.2009 at about 12.00 P.M. (noon), in the area of Sector 14, Hisar, statedly on account of rash and negligent driving of Tractor bearing registration No. RJ-31R/5749 by respondent No. 1 Rohtash, legal representatives of deceased namely her father Sh. Balraj Mittal, mother-Smt. Ram Dulari Mittal and sister Ms. Sarita had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against respondents i.e. Rohtash- driver, Ajay Kumar-owner and United India Insurance Company-insurer of Tractor bearing registration No. RJ-31R/5749 (hereinafter referred to as the offending vehicle), claiming compensation to the tune of Rs. 25 lacs.

On notice, all the three respondents appeared and filed written statements contesting the claim petition. Issues on merits were framed. The

parties were afforded opportunities to lead evidence.

On conclusion of trial vide Award dated 13.1.2011, Motor Accident Claims Tribunal, Hisar, accepted the claim petition and awarded compensation of Rs.1,26,000/- to the claimants along with interest at the rate of 9% per annum from the date of filing claim petition till actual realization. The liability to pay this amount was held to be joint and several by all the three respondents.

The claimants were dissatisfied with the amount of compensation awarded to them by the Motor Accident Claims Tribunal, Hisar and have filed the present appeal before this Court.

Notice of the appeal was given to the respondents, who put in appearance. However, today there is no representation on behalf of respondent Nos. 1 and 2.

I have heard learned counsel for the appellants and learned counsel for the Insurance Company besides going through the record.

I am of the view that the compensation awarded by the Tribunal is on the lower side. In judgment '**Kishan Gopal and another versus Lala and others 2013(4) R.C.R. (Civil) 276**' by the Apex Court while dealing with death of a ten years old child in a road side accident, the Court had laid down criteria for awarding compensation observing that child was assisting his parents in agriculture occupation, if the deceased child was alive, he would have certainly contributed substantially to the family of the appellants by working hard. Therefore, notional income of the child was taken as Rs.30,000/- per month. Applying multiplier of 15, compensation of Rs.4,50,000/- was arrived at to which an amount Rs.50,000/- was added

under conventional Heads i.e. loss of love and affection, funeral expenses and last rites etc. making a total sum of Rs.5 lacs.

The present case is squarely covered by the said judgment, as such the appeal is accepted, the award passed by Motor Accident Claims Tribunal, Hissar is modified and compensation of Rs.5 lacs is awarded to the claimants payable by all the three respondents jointly and severally. The Tribunal has already awarded compensation of Rs.1,26,000/-. The claimants shall be entitled to get additional compensation of Rs.3,74,000/-(5,00,000 – 1,26,000) along with interest at the rate of 7.5% per annum from the date of filing of appeal till actual realization besides cost of the appeal. It is stated that appellant-claimant No. 3 has since attained majority and that the claimants require money for meeting their needs, let the amount of enhanced compensation be released to the claimants in equal shares. The direction with regard to deposit of 50% of the amount in the form of FDR with some nationalized bank for a period of two years shall not apply.

With such modification, the appeal is allowed partly.

(H.S. MADAAN)
JUDGE

September 11, 2019
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No