

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 3014 of 2015 (O&M)
Date of Decision: 06.09.2019

Meenu Devi and others

..... Appellants

Versus

Kuldeep Singh @ Dhola and others

..... Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Vinod Kumar Kanwal, Advocate, for
Mr. Ashit Malik, Advocate,
for the appellants.

Mr. Siddharth Gulati, Advocate,
for respondents No.1 & 2.

Ms. Sheenu Sura, Advocate,
for respondent No.3.

JAISHREE THAKUR, J.

1. This is an appeal that has been filed seeking enhancement of compensation as allowed by the Motor Accident Claims Tribunal, Kaithal on account of death of minor Subham.

2. In brief, the facts are that an accident took place on 15.04.2013 at about 8.30 p.m. which resulted in death of Subham son of Naresh Kumar. On account of death, a claim petition was filed stating that the deceased was aged 17 years and was student of 10+1 studying at R.K.S.D. Public School, Kaithal and helped his father in his agricultural work. His monthly income was ₹ 10,000/- per month

while stating that a sum of ₹ 50,000/- was spent on transportation and last rites. It was stated that Subham was the only son of his parents and his untimely death resulted in unbearable blow to the parents.

3. On notice, appearance was caused by the respondents and written statement filed. Issues were framed and on appreciation of evidence, the Motor Accident Claims Tribunal came to the conclusion that the claimants would be entitled to total compensation of ₹ 5,85,000/-. Aggrieved that the compensation is on the lower side, the instant claim petition has been filed by the parents of the deceased Subham. It is contended that the Motor Accident Claims Tribunal has wrongly applied the multiplier of 17 and has wrongly deducted 50% of the income.

4. Learned counsel appearing on behalf of the Insurance Company would contend that the annual income of the deceased has been taken on the higher side while further stating that no compensation can be awarded on account of loss of estate.

5. I have heard learned counsel for the parties and with their assistance have also perused the pleadings of the case and the evidence led before the Tribunal.

6. The factum of accident is not in dispute nor is the question of the driver being held guilty of negligence in driving the offending vehicle causing an accident and death of Subham. However, the Tribunal has wrongly assessed the compensation which is to be paid to the claimants. It is an admitted fact that Subham was a

student 17 years of age and was in the process of completing his education. There is nothing on the record to substantiate the fact that he was deriving an income and, therefore, only notional income can be assessed. The judgment as delivered by the Apex Court in ***Kishan Gopal vs. Lala 2013(4) RCR (Civil) 276*** allowing compensation to the parents of their child who died at the age of 10 years by holding the notional income to be ₹ 30,000/- per year would be applicable to allow compensation to a minor, however, this Court while noting that the accident in ***Kishan Gopal*** case (supra) pertain to the year 1994 and considers it appropriate to hold the income of the deceased to be ₹ 50,000/- per year. Since he was 17 years of age, the multiplier as applied by the Tribunal is on the lower side and multiplier of 18 should be applied along with ₹ 50,000/- under the conventional heads. Accordingly, the compensation in favour of the claimants/appellants is re-calculated as under :-

Annual income of the deceased	: ₹ 50,000/-
Net income	: ₹ 50,000/-
After applying multiplier of 18	: ₹ 9,00,000/-
Conventional heads	: ₹ 50,000/-
Total compensation	: ₹ 9,50,000/-

7. In view of the above, the appeal is allowed and consequently the compensation awarded is enhanced from ₹ 5,85,000/- to ₹ 9,50,000/-.

8. The Insurance Company is directed to release the

enhanced compensation in favour of the claimant-appellants with interest @ 7.5% per annum from the date of filing of the petition till realization in terms of the judgment rendered by the Supreme Court in ***Dara Singh @ Dhara Banjara vs. Shyam Singh Varma & Ors., Civil Appeal No. 4528 of 2019 [SLP(C) No. 5720 of 2019]*** decided on 01.05.2019.

9. The award is modified and the appeal is allowed to the above extent.

06.09.2019

Satyawan

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned

Yes.

Whether reportable

No.