

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

FAO No. 6422 of 2013 (O&M)

Date of decision :November 28, 2019

Vidhya Devi and others

.....Appellants

Versus

Mahesh Kumar Sharma and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. M.S. Randhawa, Advocate
for the appellants.

Mr. A.K. Ranolia, Advocate
for respondents No. 1 and 2.

Mr. Rajbir Singh, Advocate
for respondent No. 3.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as the 'Tribunal') on account of death of Lokesh vide award dated 30.07.2013.

Brief facts necessary for adjudication of the case are that the appellants/claimants i.e. parents and siblings of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Lokesh, aged about 13 years, on 20.04.2012, in a motor vehicle accident, caused due to rash and negligent driving of the offending vehicle, i.e. Truck bearing registration No. HR-38Q-4383, by respondent No.1.

Learned Tribunal while holding the deceased to be 13 years old assessed his notional income as ₹15,000/- per annum and awarded total compensation of ₹2,45,000/-, which is detailed as under:-

<i>Sr. No.</i>	<i>Heads of claim</i>	<i>Amount</i>
1	Income	₹15,000/- p.a.
2.	Total dependency after applying a multiplier of 15 (15,000 x 15)	₹2,25,000/-
3.	Loss of love and affection	₹10,000/-
4.	Funeral expenses	₹10,000/-
	Total	₹2,45,000/-

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants submits that the deceased was a student of 7th standard, performing very well in his studies and in his free time, he would assist his father who had an Electrician shop. It is submitted that notional income of the deceased has been wrongly assessed as ₹15,000/- per annum. Meagre compensation is stated to be awarded. He relies upon the judgment of this Court in **FAO No.3964 of 2014 (Chet Ram and another v. Gautam Kumar and others)** dated 21.09.2017, to submit that notional income of the deceased should at least be assessed as ₹50,000/- per annum. It is thus prayed that the compensation be enhanced accordingly.

Learned counsel for the respondent - insurance company while refuting the arguments raised by learned counsel for the appellants submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 30.07.2013 be upheld.

I have heard learned counsel for the parties and have gone through the available file.

There is no dispute that Lokesh, aged 13 years, lost his life due

to injuries received by him in a motor vehicle accident, which took place on 20.04.2012 due to the rash and negligent driving of Truck bearing registration No. HR-38Q-4383, by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is specifically pleaded that the deceased after coming back from school would assist his father, who was running an electrician shop.

A co-ordinate Bench in FAO No.3964 of 2014 titled **Chet Ram and another v. Gautam Kumar and others** decided on 21.09.2017, while dealing with a similar matter has assessed the notional income of a deceased student as ₹50,000/- per annum in respect to an accident which took place in the year 2011. Specific reference was made therein to the judgment of the Hon'ble Supreme Court in the case of **Krishan Gopal and another v. Lala and others, 2013(4) RCR (Civil) 276**, wherein notional income of a ten years old child was assessed to be ₹30,000/- per annum. Accident in the said case had occurred in the year 1992. Reference was also made to the decision of the Hon'ble Supreme Court in **Lata Wadhwa v. State of Bihar, 2001(4) RCR(Civil) 673** especially with regard to the Second Schedule to Section 163A of the Act for calculating compensation in case of a victim below 15 years of age.

Keeping in view the factual matrix of the present case, it is considered just and appropriate to assess the notional income of the deceased to be ₹50,000/- per annum instead of ₹15,000/- per annum as assessed by the learned Tribunal. Multiplier of 15 is to be applied in this case. The claimants are also entitled to ₹15,000/- each for funeral expenses and loss of estate. In terms of the judgment of the Hon'ble Supreme Court in

Magma General Insurance Company Limited versus Nanu Ram Alias

Chuhru Ram and other 2018 (4) RCR (Civil) 333 and decision dated 14.03.2019 of this Court in **FAO No. 2110 of 2016** titled **Shri Ram General Insurance Company Limited versus Beant Kaur and others,** appellants No. 1 and 2 i.e. parents of the deceased are entitled to ₹40,000/- on account of loss of filial consortium.

Appellants-claimants are, thus, entitled to compensation which is reworked as under:-

<i>Sr. No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	₹50,000/- p.a.
2.	Total dependency after applying a multiplier of 15 (50,000 x 15)	₹7,50,000/-
3.	Loss of estate	₹15,000/-
4.	Funeral expenses	₹15,000/-
5.	Filial consortium	₹40,000/-
	Total	₹8,20,000/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants are entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

(Lisa Gill)
Judge

November 28, 2019
rts

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