227 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5195-2015 (O&M)
Date of Decision: 10.12.2019

Maimuna and another
.....Appellants

Versus

Ibrahim and others ....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Shiva Khurmi, Advocate for
Mr. Vishal Mittal, Advocate, for the appellants.

Mr. Amit Kundra, Advocate, for respondent No.3.

NIRMALJIT KAUR, J. (ORAL)

The present appeal is filed for enhancement of compensation granted vide award dated 13.5.2015 by the learned Motor Accident Claims Tribunal, Mewat.

While praying for enhancement, learned counsel for the appellants submitted that the deceased was 15 years of old. The income of the deceased was assessed only ₹ 15,000/- per annum and multiplier of 15 has been applied, whereas, the income of the deceased should have been assessed at least ₹ 50,000/- per annum. Similarly, the multiplier of 18 should have been applied instead of 15. Reliance is placed on the judgment rendered by this Court in the case of **Beet Nath** Vs. **Gulab Singh**, FAO No. 159 of 2015 decided on 10.7.2017 as well as **Sunita Devi and another** Vs. **Vijay Pal and others**, 2018(2) Law Herald 1659, vide which, the learned Single Judge of this Court took into account the notional income as ₹

50,000/- per annum.

Learned counsel for the respondent-Insurance Company while vehemently opposing the enhancement by taking ₹ 50,000/- per annum as the income submitted that the same would be against the well settled proposition of law as laid down in the case of **Kishan Gopal and another** Vs. **Lala and others**, 2013(5) Law Herald (SC) 4346 wherein the notional income of the child was taken as ₹ 30,000/-. Reference is also made to the second schedule provided under Section 163-A of the Motor Vehicle Act qua the fatal accident resulting in death cases to be taken as maximum ₹ 5 lacs who is not earning.

A perusal of the judgment rendered in the case of **Kishan Gopal's** case (supra) shows that the said accident pertained to the year 1992. Taking the date of the accident, learned Single Judge of this Court in the case of **Sunita Devi** (supra) held that ₹ 50,000/- to be the fair income to be assessed of a child, who is 15 years old. The discussion in the said case while taking the notional income as ₹ 50,000/-, it was observed in para No.8 as under:-

> "Reference can also be made to a latest judgment of this Court in the case of Beet Nath and another vs. Gulab Singh and others (FAO No.159 of 2015) decided on July 10, 2017, wherein the notional income of the child who died in an accident which took place in the year 2012 was taken as Rs.50,000/-. It was observed in that case that in the case of Kishan Gopal and another vs. Lala and others, 2013 (4) RCR (Civil) 276, wherein the notional income of a 10 years old child was taken as Rs.30,000/-, the year of the accident was 1992. But in that case, the accident had taken place in the year 2012 and the age of the deceased

> at the time of the accident was 15 years. Since the value of rupee has come down drastically since the year 1992, the notional income in Beet Nath's case (supra) was taken as Rs.50,000".

No appeal seems to have been filed in either of the two cases i.e. neither in the case of **Beet Nath** or **Sunita Devi's** cases (supra). Even otherwise, nothing has been brought to the notice of this Court that the said order or judgment has been set-aside. This Court too is in agreement of the said opinion of the learned Single Judge that ₹ 30,000/- was held as the notional income of a minor child who died in an accident which took place in the year 1992. The accident in the present case has taken place in 2013. The notional income of ₹ 30,000/- cannot be equated with the falling value of the money as on date or in the year 2014. In view of the same, this Court deems it proper to take the notional income as ₹ 50,000/- per annum."

In view of the above, the award is modified and the income of the deceased is assessed @ ₹ 50,000/- per annum and multiplier of 18 is accordingly applied.

In view of the above, the compensation is now re-assessed, as per the calculation provided under:-

Sr. No.	Head	Amount assessed
1	Notion income	50000/- per annum
2	Age	15
3	Multiplier of 18	50000 x 18 = 9,00,000/-
4	Conventional head	30000/-
5	Total	9,30,000/-
7	Awarded by the Tribunal	270000/-
8	Enhanced amount	660000/-

Thus, the enhanced compensation of ₹ 6,60,000/- be paid to the appellants within two months from the receipt of certified copy of this order alongwith 6% interest per annum from the date of filing of claim petition. In case the said amount is not paid within two months, the same shall be paid thereafter alongwith 12% interest from the expiry of the period of two months.

(NIRMALJIT KAUR)
JUDGE

10.12.2019
sharmila

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No