

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

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**FAO-4315-2016(O&M)**

Date of Decision : September 19, 2019

Oriental Insurance Co. Ltd.

.....Appellant

***VERSUS***

Manjeet Kaur and others

.....Respondents

**CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR**

Present : Mr. Lalit Garg, Advocate  
for the appellant.

Mr. Harinder Singh Sandhu, Advocate  
for respondents No.1 and 2.

**NIRMALJIT KAUR, J. (Oral)**

The present appeal is filed for reduction of compensation granted by the Motor Accident Claims Tribunal, S.A.S.Nagar, Mohali (for short the 'Tribunal') vide award dated 19.4.2016 vide which Rs.10,94,200/- was awarded.

While praying for reduction, learned counsel for the appellant-Insurance Company submitted that the amount granted by the Tribunal is on the higher side. Reliance was placed on the judgment rendered 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 Rs.30,000/- whereas in the present case the monthly income of Rs.6600/- has been taken and that no future prospects have been granted.

Learned counsel for respondents No.1 and 2, on the other hand submitted that the income so assessed as the minimum wages that existed at that point of time. Rs.30,000/-was assessed as the notional income of the child in the case of Kishan Gopal's case (supra) as the accident in the said case was of the year 1992 whereas in the present case the accident is of the year 2014.

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 Rs.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 Rs.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 Rs.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 Rs.30,000/- cannot be equated with the falling value of the money as on date or in the year 2013.

In view of the same, this Court deems it proper to take the notional income as Rs.50,000/- per annum. In the present case, the accident is of the year 2014/-. Hence, as of now Rs.50,000/- per annum is also appropriate.

Accordingly, the income is now to be reduced from Rs.79,200/- per annum to Rs.50,000/- per annum. However, this Court does not find any merit in the argument that no future prospects could have been granted. Accordingly, the said argument is rejected.

It is not disputed before this Court that the appellants are otherwise entitled to the enhancement under the heads of funeral and loss of estate to the extent of Rs.30,000/- whereas only Rs.25,000/- was granted.

In view of the above, the award dated 19.4.2016 is modified, as per the calculation provided under:-

| Sr. No. | Head   | Amount assessed  |
|---------|--------|------------------|
| 1       | Income | Rs.50,000/- p.a. |

| Sr. No. | Head                                 | Amount assessed             |
|---------|--------------------------------------|-----------------------------|
| 2       | Multiplier                           | 50,000 x 18 = Rs.9,00,000/- |
| 3       | Conventional Heads                   | Rs.30,000/-                 |
| 4       | Total                                | Rs.9,30,000/-               |
| 5       | Compensation awarded by the Tribunal | Rs.10,94,200/-              |
|         |                                      | Rs.1,64,200/-               |

Vide an interim order dated 1.8.2016, 50% of the amount awarded was stayed. Accordingly, the Insurance Company shall deposit the balance amount as per the above calculation within two months from the receipt of certified copy of this order alongwith interest as already awarded by the Tribunal from the date of the claim petition till its realization.

However, in case the same is not deposited within two months, the same shall thereafter be deposited alongwith interest @ 12% till payment after the expiry of two months.

September 19, 2019  
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(NIRMALJIT KAUR)  
JUDGE

Whether speaking/reasoned. : Yes/No  
Whether Reportable. : Yes/No