

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

1. F.A.O No. 7597 of 2014

Sunita Kaur @ Anita Rani and anr.

...Appellants

Versus

Sukhvir Singh and ors.

...Respondents

2. F.A.O No. 7619 of 2014

Rohit Kumar

...Appellant

Versus

Sukhvir Singh and ors.

...Respondents

Date of decision:- 18.11.2019

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Yogesh Gupta, Advocate and
Mr. S.S. Antal, Advocate
for the appellants

Mr. Aman Sharma, Advocate
for respondent No. 2-P.R.T.C.

RITU BAHRI J. (Oral)

1. This order shall dispose of the above two appeals whereby the claimants are seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal') to the tune of Rs.2,60,000/- in FAO No. 7597-2014 and Rs. 1,60,000/- in FAO No. 7619-2014, vide impugned award dated 05.05.2014.

2. As per claimants, on 20.7.2013, deceased Gurdip Singh aged

about 17 years and one Rohit Singh was going towards village Azizpur after getting petrol filled in the motorcycle. They were riding on the motorcycle bearing registration No. PB-11-AL-7046 from the side of petrol pump in the area of village Rampur. The deceased Gurdip Singh was driving the motorcycle. When they took a turn from Rampur Petrol Pump, a bus of Pepsu Road Transport Corporation bearing registration NO. PB-13T-5365 came from Banur side in a rash and negligent manner and hit against the motorcycle of the deceased. Both occupants of the motorcycle fell down on the road and suffered multiple injuries. Gurdip Singh was shifted to Gian Sagar Hospital, Banur but he succumbed to his injuries. F.I.R No. 81 dated 20.07.23013 under Section 279/337/338/304-A IPC was registered against respondent No. 1 in this regard.

3. While assessing compensation in claim petition No. 758-2013, the Tribunal took the notional income of the deceased-Gurdip Singh at Rs.15,000/- per annum and applied the multiplier of 15. Rs.25,000/- were awarded towards funeral expenses and Rs.10,000/- were awarded towards love and affection. The total compensation awarded to the claimants was Rs.2,60,000/-.

4. While assessing compensation in claim petition No. 757-2013, the Tribunal awarded the compensation of Rs.1,60,000/- (i.e Rs.1,10,000/- towards medical bills, Rs.20,000/- towards special diet, Rs. 20,000/- towards mental agony and Rs.10,000/- towards cost of attendant

5. The learned counsel for the claimants-appellants (in FAO No. 7597-2014) contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced, in view of the

judgment passed by this Court in a case of ***Beeth Nath and another vs. Gulab Singh and others, passed in FAO No. 159-2015, decided on 10.07.2017*** whereby this Court had taken the notional income of Rs.50000/- per annum. The deceased in that case was just 15 years old at the time of the accident.

6. Learned counsel for the appellant-injured (FAO No. 7619 of 2014) contends that the injured suffered compound of fracture of left frontal bone, fracture right leg, fracture of right fore arm and other grievous injuries and thus the compensation awarded to the appellant deserves to be enhanced.

7. On the other hand, the learned counsel for the respondent-P.R.T.C has vehemently opposed the present appeal.

8. I have heard learned counsel for the parties

9. It is not in dispute between the parties that the accident had taken place, as the accident had been duly proved by the claimants/appellants.

10. Reference at this stage can be made to a judgment of Hon'ble the Supreme Court in a case of ***"Kishan Gopal Vs. Lala and others 2013 AIR SC (Civil) 2465"*** wherein in a case of death of child aged 10 years, Hon'ble the Supreme Court took the notional income of the deceased at Rs.30,000/- and applied the multiplier of 15 and the compensation came to Rs.4.50 lacs, Rs.50,000/- was given towards loss of love and affection, funeral expenses, last rites etc. Hon'ble the Supreme Court while dealing with a case filed under Section 163-A of the Motor Vehicles Act laid criteria for awarding the compensation in a case filed under Section 163-A

of the Motor Vehicle Act. Hon'ble the Supreme Court in para 18 of the judgment has held as under:-

“18. For this purpose, it would be necessary for us to refer to Second Schedule under Section 163-A of the M.V. Act, at clause No.6 which refers to notional income for compensation to those persons who had no income prior to accident. The relevant portion of clause No.6 states as under:

“6. Notional income for compensation to those who had no income prior to accident: (a) Non-earning persons – Rs.15,000/- p.a.” The aforesaid clause of the Second Schedule

*to Section 163-A of the M.V. Act, is considered by this Court in the case of **Lata Wadhwa & Ors. v. State of Bihar & Ors.***

***2001 (4) RCR (Civil) 673: 2001 (8) SCC 197,,** while*

examining the tortious liability of the tort-feasor has examined

the criteria for awarding compensation for death of children in

accident between age group of 10 to 15 years and held in the

above case that the compensation shall be awarded taking the

contribution of the children to the family at Rs.12,000/- p.a.

and multiplier 11 has been applied taking the age of the father

and then under the conventional heads the compensation of

Rs.25,000/- was awarded. Thus, a total sum of Rs.1,57,000/-

was awarded in that case. After noting the submission made on

behalf of TISCO in the said case that the compensation

determined for the children of all age groups could be double

as in its view the determination made was grossly inadequate

and the observation was further made that loss of children is irrecusable and no amount of money could compensate the parents. Having regard to the environment from which the children referred to in that case were brought up, their parents being reasonably well-placed officials of TISCO, it was directed that the compensation amount for the children between the age group of 5 to 10 years should be three times. In other words, it should be Rs.1.5 lakhs to which under the conventional heads a sum of Rs.50,000/- should be added and thus total amount in each case would be Rs.2 lakhs. Further, in the case referred to supra it has observed that in so far as the children of age group between 10 to 15 years are concerned, they are all students of Class VI to Class X and are children of employees of TISCO and one of the children was employed in the Company in the said case having regard to the fact the contribution of the deceased child was taken Rs.12,000/- p.a. appears to be on the lower side and held that the contribution of such children should be Rs.24,000/- p.a. In our considered view, the aforesaid legal principle laid down in Lata Wadhwa's case with all fours is applicable to the facts and circumstances of the case in hand having regard to the fact that the deceased was 10 years' old, who was assisting the appellants in their agricultural occupation which is an undisputed fact. We have also considered the fact that the rupee value has come down drastically from the year 1994, when the notional income of

*the non-earning member prior to the date of accident was fixed at Rs.15,000/-. Further, the deceased boy, had he been alive would have certainly contributed substantially to the family of the appellants by working hard. In view of the aforesaid reasons, it would be just and reasonable for us to take his notional income at Rs.30,000/- and further taking the young age of the parents, namely the mother who was about 36 years old, at the time of accident, by applying the legal principles laid down in the case of **Sarla Verma vs. Delhi Transport Corporation, 2009 (3) RCR (Civil) 77: 2009 (3) Recent Apex Judgment (RAJ) 373: (2009) 6 SCC 121**, the multiplier of 15 can be applied to the multiplicand. Thus, $30,000 \times 15 = 4,50,000$ and 50,000/- under conventional heads towards loss of love and affection, funeral expenses, last rites as held in **Kerala SRTC v. Susamma Thomas 1994(2) SCC 176**, which is referred to in **Lata Wadhwa's case** and the said amount under the conventional heads is awarded even in relation to the death of children between 10 to 15 years old. In this case also we award Rs.50,000/- under conventional heads. In our view, for the aforesaid reasons the said amount would be fair, just and reasonable compensation to be awarded in favour of the appellants."*

11. This Court in **Beet Nath's case (supra)** after relying upon the above said judgment has observed as under:-

*In the case of **Krishan Gopal and another (supra)**, wherein the*

*notional income of a 10 years old child was taken at Rs.30,000, the year of the accident was 1992. In the present 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 can safely be taken as Rs.50,000/- After applying a multiplier of 18 in view of the ratio of the judgment in the case of **Sarla Verma and others vs. Delhi Transport Corporation and another (2009) 6 SCC 121**, the notional annual income of the deceased comes to Rs.9,00,000/-. Further an amount of Rs.15,000 on account of expenses on medical treatment, Rs. 1,00,000 on account of the loss of love and affection to the parents and Rs.25,000/- on account of funeral expenses is awarded under the conventional heads. Thus, the compensation allowed to the appellants-claimants is enhanced from Rs.2,90,000/- to Rs.10,40,000/-. The enhanced amount of compensation i.e Rs.7,50,000/- will carry interest @9% per annum from the date of filing of the petition till actual realization in view of the judgment of Hon'ble the Supreme Court in the case of **Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others, 2015 (1) SCC 539**. Remaining conditions of disbursal of amount shall remain unaltered.*

11. In the present case, the compensation is being reassessed as per the judgments mentioned above :-

DECEASED-GURDIP SINGH

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Notional Income	Rs.50,000/- per annum
(ii)	Compensation after multiplier of 18 is applied	Rs.50000 X 18= Rs.09,00,000/-
(iii)	Conventional heads (Loss of estate, consortium and funeral expenses)	Rs.70,000/-
(iv)	Loss of fillail consortium (parents)	Rs.80,000/- (Rs.40,000/- each)
(v)	Loss of consortium (brother and sister)	Rs.80,000/- (Rs.40,000/- each)
	Total Compensation awarded	Rs.11,30,000/-
	Enhanced amount of compensation	11,30,000-2,60,000=Rs.08,70,000/-

INJURED- ROHIT KUMAR

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Medical Bills	Rs.1,10,000/-
(ii)	Special Diet	Rs.20,000/-
(iii)	Mental Agony	Rs.30,000/-
(iv)	Attendant charges	Rs.20,000/-
	Total Compensation awarded	Rs.1,80,000/-
	Enhanced amount of compensation	1,80,000-1,60,000=Rs.20,000/-

12. The enhanced amount of compensation of Rs.08,70,000/- in FAO No. 7597-2014 and Rs.20,000/- in FAO No. 7619-2014 shall be payable within a period of forty five days from the date of receipt of certified copy of this order. The appellants shall also get interest @ 9% per annum in view of judgment of Hon'ble the Apex Court in Civil Appeal No. 4528-2019 titled as *Dara Singh @ Dhara Banjara vs. Shyam Singh Varma and ors, decided on 01.05.2019*. The remaining conditions of disbursal of amount and recovery rights shall remain unaltered.

13. Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

18.11.2019

G Arora

Whether speaking/reasoned
Whether reportable

(RITU BAHRI)
JUDGE
Yes
No