

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

**F.A.O. No. 9957 of 2014 (O&M)
Date of Decision: 17.12.2019**

Rahis and another

.....Appellants.

Versus

Ilyas @ Chhutu and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Thomas Sethi, Advocate
for Mr. Virender Rana, Advocate
for the appellants.

None for respondents no.1 to 3.

Mr. Ashok Mathur, Advocate
for respondent no.4-Insurance Company.

LISA GILL, J.

Appellants-claimants, seek enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Mewat (for short 'tribunal'), vide impugned award dated 31.05.2014, on account of death of Armina.

Appellants-claimants, are the parents of the deceased.

Brief facts necessary for adjudication of the case are that the appellants/claimants i.e., parents of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Armina, aged about 5-6 years, on 11.06.2011, in a motor vehicle accident, caused due to rash and negligent driving of the offending vehicle, i.e. Tractor bearing registration No. HR-27-B-7319, by respondent No.1-

Ilyas @ Chhutu. Compensation was thus claimed.

Learned Tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle by respondent no.1-Ilyas @ Chhutu. Said finding of the learned tribunal has attained finality.

Learned Tribunal while accepting the deceased to be 5-6 years old assessed her notional income as ₹15,000/- per annum and awarded total compensation of ₹2,45,000/-, which is detailed as under:-

1.	Total income of deceased	₹15,000/- p.a.
2.	Total dependency after applying a multiplier of 15 (15,000 x 15) ₹2,25,000/-	₹2,25,000/-
3.	Last rites ceremonies and transportation charges	₹20,000/-
	Total	₹2,45,000/-

Aggrieved therefrom, the present appeal has been filed by the appellants-claimants.

Learned counsel for the appellants submits that the deceased was a brilliant student. 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 decision dated 21.09.2017 in **FAO No.3964 of 2014 (Chet Ram and another v. Gautam Kumar and others)**, 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 no.4-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 31.05.2014, be upheld.

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

There is no dispute that Armina, aged 5-6 years, lost her life due to injuries received by her in a motor vehicle accident, which took place on 11.06.2011 due to the rash and negligent driving of Tractor bearing registration No. HR-27-B-7319, by respondent No.1. Finding of the learned Tribunal on this issue has attained finality.

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 has been correctly applied. 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:-

Sr. No.	Heads of Claim	Amount
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/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimants shall be entitled to interest on the enhanced amount of compensation at the rate of 7.5% per annum from the date of filing of the petition till realization. Manner of disbursement as determined by the learned Tribunal shall remain the same.

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

17.12.2019
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.