

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

**FAO No.4377 of 2017 (O&M)
Date of Decision: May 07, 2019.**

Suman Devi and another

.....APPELLANT(s).

VERSUS

Raj Kumar and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Navmohit Singh, Advocate
for the appellant (s).

Mr. Rajneesh Malhotra, Advocate
for respondent No.3-insurance company.

SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhari (hereinafter referred to as 'the tribunal') vide award dated 03.02.2017 allowed compensation of ₹5,00,000/- for death of a 14 years old young boy namely Nitesh Kumar, son of appellants, in a motor vehicle accident with truck bearing registration No.HR56A-5044.

As the only issue pressed in this appeal relates to quantum of compensation as awarded by tribunal, detailed facts of the case are being skipped for the sake of brevity.

Learned counsel for the appellants has argued that the deceased was 14 years of age and the tribunal has taken his notional income as ₹30,000/- per annum as per the law settled in case of ***Kishan Gopal and***

another Vs. Lala and others 2013(4) RCR (Civil) 276, in which deceased was a 10 years old boy and accident had taken place in the year 1992. By now with steep increase in the price index, notional income of ₹30,000/- assessed by the tribunal is on lower side and it should be assessed at least ₹40,000/- per annum as the accident in this case had taken place in the year 2014.

Learned counsel for respondent No.3-insurance company submits that deceased being a young boy of 14 years, was not an earning hand and the notional income assessed by the tribunal is appropriate.

Learned tribunal, while assessing notional income of deceased, has relied on the observations in case of *Kishan Gopal and another Vs. Lala and others (supra)*. In that case, the accident had taken place in the year 1992 and the deceased was 10 years of age. Keeping in view the above fact, I am of the opinion that the submission of learned counsel for the appellants has merits and is accepted. Notional income of the deceased is taken as ₹40,000/- per annum.

Consequently, the compensation to which the claimants are entitled, is reassessed as follows:-

Sl.No.	Heads	Calculation
(i)	Income of the deceased	₹40000 per annum
(ii)	Compensation after multiplier of 15 is applied	(₹40000X15)= ₹600000
(iii)	Loss of estate	₹15000
(iv)	Funeral expenses	₹15000
Total		₹6,30,000/-

The appeal has merits and is accepted. The award of the tribunal is modified and the compensation allowed to the appellants-

claimants is enhanced from ₹5,00,000/- to ₹6,30,000/- for death of Nitesh

Kumar. Liability to pay the amount of compensation shall be as per award. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the appeal till actual realisation. The amount of enhanced compensation shall be apportioned between the claimants as follows:-

- | | | |
|------|----------------------------------|------|
| (i) | Appellant-claimant No.1-mother | :80% |
| (ii) | Appellants-claimants No.2-father | :20% |

Respondent-insurance company will deposit the shares of appellants-claimants in their bank accounts or pay the same through demand drafts. The claimants shall also be entitled to costs of this appeal.

In case of demise of any of above claimant(s) before his/her share of compensation is disbursed, the same shall be given to other surviving claimant.

May 07, 2019.

Sachin M.

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No