

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

FAO No.6083 of 2017 (O&M)

Date of Decision:29.11.2019

Koshlya Devi and another

...Appellants

Vs

Balwinder Singh @ Binder and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Vinay Saini, Advocate
for the appellants.

Mr. Sanjay Jain, Advocate
for respondents No.1 and 2.

Mr. Lalit Garg, Advocate
for respondent No.3.

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JAISHREE THAKUR J. (ORAL)

1. This appeal seeks to challenge the award dated 12.05.2016 passed by the Motor Accident Claims Tribunal, Ambala wherein the appellants herein have been allowed compensation of ₹3,50,000/- on account of death of their son Rajesh Kumar @ Harvinder Singh, aged 12 years.

2. In brief, the facts are that on 27.01.2015, minor Rajesh Kumar @ Harvinder Singh along with his father had gone to Gurdwara of village Saunda and while returning home on their bicycles, the offending truck bearing registration No.HR-01A-9509, being driven rashly and negligently by respondent No.1 dashed against the bicycle, which the deceased was riding. Due to the impact of accident, deceased received multiple grievous injuries and died at the spot. An FIR No.11 dated 27.01.2015 under Sections 279 and 304-A IPC was registered against respondent No.1.

3. The Tribunal while taking into consideration the pleadings and

evidence brought on record awarded a consolidated sum of ₹3,50,000/-.

4. Learned counsel appearing on behalf of the appellants argues that the Tribunal has erred in awarding compensation on account of death of a 12 years old child on the lower side and relies upon judgment of a Coordinate Bench of this Court rendered in FAO No.6338 of 2013 decided on 09.07.2018 titled as **Sushila and another Vs. Brij Mohan and others** wherein while following the judgment of the Supreme Court in **Kishan Gopal and another vs. Lala and others, 2013(4) RCR (Civil) 276** assessed the notional income of a 15-16 years old boy to be ₹30,000/- per annum. Similarly, in a judgment passed in FAO No.4053 of 2014 decided on 17.11.2017, this Court took the notional income of a deceased boy aged 15 years at ₹50,000/- per annum. In **Kishan Gopal's** case (supra), the Hon'ble Supreme Court had assessed the notional income of a 10 years old child to be ₹30,000/- per annum in respect of an accident which took place in the year 1992 whereas in the present case the accident had occurred in the year 2015 and therefore, the compensation is required to be enhanced by assessing notional income of the deceased on higher side.

5. Per contra, learned counsel appearing on behalf of respondents urged that there is no infirmity in the award so passed and the compensation of ₹3,50,000/- has rightly been assessed.

6. I have heard learned counsel for the parties and have also gone through the case law regarding quantum of compensation to be assessed on the death of a minor child.

7. This Court had an occasion to deal with similar matter in **FAO No.5190 of 2014 decided on 26.08.2019 titled as Seema and another Vs. Bhim Singh and another** wherein after taking into consideration the ratio

culled out in *Lata Wadhwa and others Vs. State of Bihar and others 2001 (4) RCR (Civil) 673; Kishan Gopal and another Vs. Lala and others 2013 (4) RCR (Civil) 276; Puttamma and others Vs. K.L. Narayana Reddy and another 2014 (1) RCR (Civil) 443* and the inflation in price index, this Court awarded a compensation of ₹8,00,000/- in case of death of a minor child of 8 years, after assessing notional income as ₹50,000/- per annum and applying a multiplier of 15 in terms of judgment of Hon'ble Supreme Court in *Sarla Verma Vs. Delhi Transport Corporation (2009) 6 SCC 121.*

7. Following the decision passed in *FAO No.5190 of 2014 decided on 26.08.2019* titled as *Seema and another Vs. Bhim Singh and another,* the award of the Tribunal is modified and the total compensation payable to the appellants shall be ₹8,00,000/-. The amount in excess over what was awarded by the Tribunal will also attract interest @7.5% from the date of the petition till the date of payment. The claimants will share the amount of compensation as per the award of the Tribunal. The liability shall remain the same as has already been determined by the Tribunal. The appeal is allowed in the abovesaid manner.

(JAISHREE THAKUR)
JUDGE

November 29, 2019

Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No