

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 5073 of 2018 (O&M)
Date of Decision: 05.02.2020

Sanjay & Anr.

...Appellants

Vs.

Rakesh & Ors.

...Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. N.K. Dhawan, Advocate, for
Mr. M.S. Khillan, Advocate, for the appellants.

Mr. Punit Jain, Advocate, for respondent No.3.

ALKA SARIN, J.

The present appeal has been filed by claimants assailing the award dated 18.01.2017 passed by the Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal')

In brief the facts relevant to the present case are that claimant-appellants had filed claim petition for the grant of compensation on account of death of their son – Uday Partap, who was aged 8 years at the time of the accident and was a student of 3rd standard in J.P.S Academy, Karnal Road, Asandh. The Tribunal has awarded the following compensation taking the notional income as Rs.15,000/-.

Notional Income	:	₹15,000/-
Multiplier 15 (8 years)	:	₹2,25,000/-
Loss of love and affection	:	₹1,00,000/-
Funeral Expenses	:	₹25,000/-

Total Compensation : ₹3,50,000/- + 9% Interest P.A.

Dissatisfied with the amount awarded, the present appeal has been preferred by the claimant-appellants.

I have heard the learned counsel for the parties.

It has been contended by the learned counsel for the appellants that the notional income ought to have been assessed as per the dictum laid down by the Supreme Court in the case of **Kishan Gopal & Anr. Vs. Lala & Ors. 2013(4) RCR (Civil) 276**, wherein the notional income of child has been taken at Rs.30,000/-. It has further been contended that the Tribunal has not granted any amount towards future prospects as well as consortium, as per the dictum laid down by the Hon'ble Supreme Court in following cases:-

- 1. Sarla Verma Vs. Delhi Transport Corporation, 2009 (3) RCR (Civil) 77;***
- 2. National Insurance Co. Ltd. Vs. Pranay Sethi and Ors., 2017 (16) SCC 680;***
- 3. Reshma Kumari and Ors Vs. Madan Mohan and Anr., 2013(9) SCC 65;***
- 4. Magma General Insurance Co. Ltd Vs. Nanu Ram alias Chuhru Ram & Ors., 2018(4) RCR (Civil) 333.***

Per contra, learned counsel for the respondent-Insurance Company has stated that the notional income has rightly been assessed as ₹15,000/- and there is no scope for any enhancement.

The child in the present case was 08 years of age at the time of the accident. As per the dictum laid down by the Hon'ble Supreme Court in the case of **Kishan Gopal (supra)**, the notional income of a child aged 10 years was assessed at ₹30,000/-. Children in the age group of 5-10 years are

categorized as school going and hence I have no hesitation in taking the notional income of the child who was 8 years as ₹30,000/-. In view of the law laid down by the Hon'ble Supreme Court in **Krishan Gopal (supra)**. Also, as per the dictum laid down in the case of **Sarla Verma (Supra)** and **Reshma Kumari's case (supra)**, 40% future prospects ought to have been added. I also find that no consortium has been given to the parents as per the dictum of the Hon'ble Supreme Court in case of **Magma General Insurance Co. Ltd. (Supra)**

In view of the settled law, I deem it just and proper to award the following compensation:-

Notional Income	:	₹30,000/-
Multiplier 15 (8 years)	:	₹4,50,000/-
Adding Future Prospects (40%)	:	₹6,30,000/-
Loss of Estate	:	₹15,000/-
Funeral Expenses	:	₹15,000/-
Filial Consortium to Parents	:	₹ 80,000/- (40,000 each)
Total Compensation	:	₹7,40,000/-

The enhanced amount of ₹3,90,000/- awarded over and above the amount granted by the Tribunal shall carry an interest @ 9% per annum from the date of the filing of the claim petition till the date of realization.

In view of the above the appeal is allowed and the award passed by the Tribunal stands accordingly modified.

February 05, 2020
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(ALKA SARIN)
JUDGE

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