

130 (3rd case) death case

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-1833-2021 (O&M)
Date of decision: 01.11.2021

UP State Road Transport Corporation

...Appellant

V/S

Sarika Verma and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Amit Jaiswal, Advocate,
for the appellant.
(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

Appellant is owner of the offending bus i.e. UP State Road Transport Corporation aggrieved against quantum of compensation awarded by the MACT to the parents/claimants of their deceased son who was all of 13 years old when he died in the accident.

2. Learned Tribunal has granted compensation and arrived at the quantum thereof, *inter alia*, based on the following reasoning:-

XXX

XXX

“27. Deceased Dhruv Verma was son of claimants Rahul Kumar Verma and Sarika Verma. His PMR is on record as Ex.P-61 and it is not in dispute that he died owing to injuries which he received in the accident in question, which occurred on 28.04.2019. His date of birth, which finds mention in the relevant record and which is not in dispute is 30.09.2005, implying thereby that he was less than 15 years of age at the time of accident. He was a school going boy and admittedly he was in 9th class, when the accident took place. Several certificates of merit and appreciation issued by the concerned school have been placed upon record by the claimants, from which a positive inference can be drawn that he was a meritorious student. Hon'ble Supreme Court of India in Krishna Gopal & Anr. Vs. Lala and others. 2014(1) SCC 244, took notional income of a child aged 10

years as Rs.30,000/- per annum. Our Hon'ble Punjab and Haryana High Court in Nachhatar Singh and Another Vs. Jagga Singh & Ors. Decided on 18.02.2016 in FAO no.4 97 of 2003, assessed the notional income of a child aged 1 years as Rs.35,000/- per annum. The said notional income of Rs.35,000/- per annum was assessed in Nachhatar Singh and Another Vs. Jagga Singh and others (Supra), in relation to an accident which took place on 09.05.1999. Keeping in view the inflationary trend, rising prices and increase in the cost of living during the period 1999 to 2019, annual notional income of deceased can safely be assessed as Rs.50,000/-. In case of Krishan Gopal and Another Vs. Lala and others (supra), Hon'ble Supreme Court has applied multiplier as per age of the claimant, however, while calculating the amount of compensation in case of Munna Lal Jain and others Vs. Vipin Kumar and others 2015 (3) RCR (civil) 447, three judge Bench of Hon'ble Supreme Court of India has held that multiplier is to be applied as per age of the deceased. In case of Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009 ACJ 1298, multiplier of 18 was suggested for the deceased within the age group of 15 to 25 years, but here, since the deceased was less than 15 years of age at the time of accident, therefore, in considered opinion of this Court, taking clue from the second schedule of the M.V. Act, 1988, multiplier of 15 can safely be applied and the amount of compensation to which the claimants are entitled to, is calculated as follows:

1	Notional Annual Income of deceased	Rs.50,000/-
2	Compensation after multiplier of 15 is applied (Rs. 50,000X15)=Rs. 7, 50,000/-)	Rs. 7,50,000/-
3	Funeral expenses	Rs.25,000/-
4	Total (2+3+4)	Rs. 8.75,000/-

Issue No.2 is thus partly decided in favour of the claimants. The said amount would be shared equally between claimants. Out of said amount, half amount would be given to them in cash in the ratio of 50:50 and remaining 50% amount is ordered to be deposited in the form of FDR in their joint name in any of the nationalised bank of their choice for three years.”

3. Perusal of the above reflects that the Tribunal has given cogent and acceptable reasons while arriving at the quantum of compensation. I find no grounds for taking a different view.

4. As regards the argument of the learned counsel for the appellant relying on the Apex Court's judgment in ***Rajendra Singh and others Vs. National Insurance Company Limited and others 2020 (7) SCC 256*** wherein a child aged 12 years died in the accident and a quantum of Rs.2,95,000/- was awarded as compensation, the same is not applicable in the facts of the present case. The quantum of the compensation is to be arrived at depending upon the facts and circumstances and the evidence adduced on record in each case and cannot be equated merely on the ground of age of the deceased. Each family-claimants is entitled to benefit according to their financial status and according to their potential and capabilities of the accident victims, who have suffered injuries or died in the unfortunate accident that takes place.

5. Other argument of learned counsel for the appellant that it was head on collusion, which resulted in the death of the victim and the same was as a result of contributory negligence of the drivers of both the vehicles, the same is also being noted only to be rejected. Assuming, there was contributory negligence as is contended, the same would in any manner not only adversely affect the rights of the claimants to seek compensation from the owner of the offending bus. Whether or not there was contributory negligence is an *inter se* dispute between the owners of

offending vehicles and the claimants cannot be non-suited on that ground.

6. In the premise, no grounds are made out to interfere.

Dismissed.

7. Pending application, if any, shall also stand disposed of.

01.11.2021

vandana

(ARUN MONGA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No