

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

FAO 992/2003

Date of decision: 05.05.2023.

Ram Gopal and another

.....**Appellants**

Vs.

Jaspal Singh and others

.....**Respondents**

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Kamaldeep Kaur, Advocate for
 Mr. Adarsh Jain, Advocate for the appellants.

Mr. Vinod Gupta, Advocate for the respondent
No.3-Insurance Company.

Nidhi Gupta, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.50,000/- granted by the Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal') vide Award dated 13.2.2002 passed in MVA Petition No.2 filed u/s 166 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act'). Claimants are parents of the deceased Satish who was 8 years old at the time of death.

Ld. Tribunal on the appraisal of facts, pleadings and evidence on record held that the deceased had died due to injuries suffered by him in motor vehicular accident that took place on 23.12.1999 due to rash and negligent driving of Truck bearing registration No. HR-29-3986 (hereinafter referred to as 'the offending vehicle') being driven by respondent no.1, owned by respondent no.2 and insured by respondent no.3. Ld. Tribunal awarded

compensation as above under 'No Fault Liability' as the deceased was 8 years of age and not earning. Ld. Tribunal further granted interest @ 9% per annum from the date of filing of the claim petition till realization. Respondents were held jointly and severally liable to pay the compensation.

Ld. counsel for the appellants submits that compensation awarded by the ld. Tribunal deserves to be enhanced as per law laid down by the Hon'ble Supreme Court in **Kishan Gopal and another v Lala and others (2014) 1 SCC 244** where, in similar circumstances it has been held that the claimants are entitled to total compensation of Rs.5 lacs with interest @ 9% per annum. It is stated that deceased therein was 10 years old and in similar circumstances, Hon'ble Supreme Court had held that where the age group of deceased is 10-15 years, for non-earning member, it will be just and fair to take notional income as Rs.30,000/- per annum. Hon'ble Supreme Court further applied multiplier of 15; and granted Rs.50,000/- under conventional heads towards loss of love and affection and funeral expenses. Thus, awarding a total compensation of Rs.5,00,000/-.

Ld. counsel for the respondent Insurance Company is unable to dispute this position in law.

No other argument has been raised.

Heard ld. counsel.

I find merit in the submissions advanced on behalf of the appellants. Even this Court in the case of **Smt. Sushma and another v State of Haryana and others, Law Finder Doc Id # 533130** has followed the above said judgment of the Hon'ble Supreme Court in **Kishan Gopal's** case (*supra*), and in similar circumstances, granted a total compensation of Rs.5

lakhs to the appellants therein. Learned Counsel for the respondent Insurance Company has not shown any judgement to the contrary.

In the present case, Ld. Tribunal has already awarded Rs.50,000/- under No Fault Liability. Accordingly, as per the ratio of the above said judgments in **Smt. Sushma** and **Kishan Gopal** (supra), claimants herein are held entitled to Rs.4.50 lacs more to be granted as compensation along with interest @ 9% on enhanced compensation from the date of filing of the claim petition till realization.

Allowed in the above terms.

Pending Application(s), if any, stand disposed of.

05.05.2023.
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No