IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO 2266/2006(O&M)
Date of decision: 26.04.2023.

Smt. Chinu

………………Appellant

Vs.

Ashok Kumar and others

………………Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sagar Aggarwal, Advocate for the appellants.

Mr. Lalit Garg, Advocate for the Insurance Company.

Nidhi Gupta, J.

Present appeal arises out of claim petition no. 28/2005 originally filed by the Smt. Chinu-mother of deceased Kritka. However, during the pendency of the appeal original claimant has died on 21.7.2012 and accordingly, amended Memo of Parties was filed, wherein Sahil; brother of the deceased was brought in as appellant, being the sole surviving legal representative of the deceased Kritka.

Prayer in this appeal is for enhancement of compensation of Rs.1,52,000/- granted by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide Award dated 7.12.2005 passed in MACT Case no. 28 of 2005, filed u/s 166 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act'), on account of death of deceased Kritka, due to injuries suffered by her in a motor vehicular accident that took place on 12.11.2001 on account of rash and negligent driving of Tata Sumo No. DL-3CF-4934 (hereinafter referred to as 'the offending vehicle') being driven by respondent no.1, owned by respondent no.2, and insured by respondent no.3 herein.

Ld. counsel for the appellant seeks enhancement of compensation on account of the fact that at the time of her death the deceased was a minor aged 8 years and student of Class IV. It is submitted that, however, ld. Tribunal has taken income of the deceased as Rs.15,000/- per annum, whereas as per judgment of the Hon'ble Supreme Court in **Kishan Gopal and another v Lala and others, Law Finder Doc Id # 477190,** income of the minor deceased therein was taken as Rs.30,000/- per annum. It is submitted that in the case of **Kishan Gopal** (supra), the date of accident is 1992 whereas, in the present case date of accident is 2001 and therefore, the income of the deceased should be assessed as at least Rs.30,000/- per annum. It is further submitted that in accordance with the said judgment multiplier of 15 is required to be applied whereas ld. Tribunal has applied multiplier of 10. It is further submitted that ld. Tribunal has awarded only Rs.2000/- under the conventional heads whereas as per latest law, appellant is entitled to Rs.77,000/- under the conventional heads as held by Hon'ble Supreme Court in **Shri Ram General Insurance Company Limited v Bhagat Singh Rawat & others, C.A.No.2410-2412/2023**.

In response, ld. counsel for the respondent Insurance Company relies upon judgment of Hon'ble Supreme Court in **Meena Devi v Nunu Chand Mahto @ Nemchand Mahto and others, 2022(4) RCR (Civil)** to submit that in the said case, though accident was of 2003, Hon'ble Supreme Court had granted 5 lacs as lump sum compensation to the claimants therein.

No other argument has been raised.

Heard ld. counsel for the parties.

Perusal of the judgment in **Meena Devi's** case (supra) relied upon by the ld. counsel for the Insurance Company, shows that in the said case the Hon'ble Supreme Court had granted compensation by following principles laid down in **Kishan Gopal's** case (supra) itself. Perusal of para 13 of judgment in **Meena Devi's** case (supra) reveals that notional income of the minor deceased therein was taken as Rs.30,000/- on basis of **Kishan Gopal's** case (supra), and multiplier of 15 was applied in view of decision in **Sarla Verma vs. Delhi Transport Corporation (2009) AIR (SC) 3104.** In this manner total loss of dependency was calculated as Rs.4.50 lacs, in case of **Meena Devi (supra)**. Thereafter, in the said case of **Meena Devi (supra)** Hon'ble Supreme Court has granted Rs.50,000/- under the conventional heads; whereas it is not disputed that as per latest judgment of the Hon'ble Supreme Court in **Bhagat Singh's** case (supra), a consolidated sum of Rs.70,000/- with 10% increase thereafter, has to be granted under the conventional heads. Accordingly, applying the abovesaid principles to the present case, impugned Award is modified and compensation payable to the appellant is recalculated as follows:-

Sr.No.	Head	Amount reworked in appeal (in Rupees)
1	Notional income	30,000/-
2.	Multiplier	15
3.	Total notional income	30,000x15=4,50,000/-
4.	Compensation under conventional heads	77,000/-
5.	Total	5,27,000/-
6	Interest	@ 6% per annum

Appeal is **allowed** in the above terms.

Pending application(s),if any, also stand disposed of.

26/04/2023. **(Nidhi Gupta)**
Joshi **Judge**

Whether speaking/reasoned	**Yes**
Whether reportable	**Yes/No**