In the High Court of Punjab and Haryana at Chandigarh

125 **FAO-5954-2015 (O & M)**
Date of Decision: January 10, 2023

BUDH RAM AND ANR **.....APPELLANTS**

VERSUS

MUKUL ROHILA AND ORS **....RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr.Ashish Yadav, Advocate for the appellants.

Mr. Amit Kundra, Advocate
for respondent No.3-Insurance Company.

ANUPINDER SINGH GREWAL, J (ORAL)

The appellants have sought enhancement of the compensation determined by the MACT, Rewari.

Learned counsel for the appellants submits that the child of the appellants aged 06 years had expired in the accident. The Tribunal should have assessed the notional income of the child as Rs.50,000/- per annum instead of Rs.30,000/- per annum. The Tribunal has granted only a lump sum of Rs.50,000/- under all other heads while the loss of consortium etc. had to be determined at the rate of Rs.44,000/- each to each of the claimants, an amount of Rs.16,500/- towards funeral expenses and a sum of Rs.16,500/- towards loss of estate. In support of his submissions, he has relied upon the judgments of this Court passed in FAO-2834-2016 titled as **Sunita Devi and another versus Vijay Pal and others** decided on 18.05.2018; in FAO-8055-2017 titled as **Paramjeet Kaur and another versus Naseem Ahmad and others** decided on 27.11.2019 and the judgment of the Supreme Court in **N. Jayshree & others Vs. Cholamandalam MS General Insurance Company Ltd., 2021 (4) RCR (Civil) 642.**

Learned counsel for the respondent-Insurance Company submits that the multiplier of 18 has erroneously been applied while a multiplier of 15 should have been applied as deceased was child of 06 years. He has relied upon the judgment of the Supreme Court in **Krishan Gopal and another versus Lala and others**, **2014 (1) SCC 244.**

Heard.

The appellants are the parents of Shubham, who had expired in the accident which took place on 13.04.2014. It is alleged that the child was hit by a vehicle which was being driven in a rash and negligent manner. It has been held by the Coordinate Benches of this Court in the cases of **Sunita Devi and another versus Vijay Pal and others** (supra) and **Paramjeet Kaur and another versus Naseem Ahmad and others** (supra) that the notional income of a child would be taken as Rs.50,000/- per annum. The Tribunal has awarded a lump sum of Rs.50,000/- per annum under all the other heads. It has been held by the Supreme Court in **Magma General Insurance Co. Ltd. Versus Nanu Ram alias Chuhru Ram and others, 2018 (18) SCC 130** that a sum of Rs.40,000/- each is payable to claimants towards loss of filial consortium. A sum of Rs.15,000/- would be payable towards funeral expenses.

The Supreme Court in **National Insurance Company Limited versus Pranay Sethi, (2017) 16 SCC 680,** while directing allowing Rs.40,000/- for loss of consortium; Rs.15,000/- for funeral expenses and Rs.15,000/- for loss of estate, has held that these amounts should be enhanced @ 10% every three years. This was also upheld by Supreme Court in **N. Jayshree & others Vs. Cholamandalam MS General Insurance**

Company Ltd., 2021 (4) RCR (Civil) 642. Therefore, the amount of enhanced compensation is assessed as under:-

Sr.No.	**Head of Compensation**	**Amount**
1.	Notional Income (50,000/- x 15)	Rs.7,50,000/-
2.	Filial Consortium (44,000/- x 2)	Rs.88,000/-
3.	Funeral Expenses	Rs.16,500/-
4.	Loss of Estate	Rs.16,500/-
	Total	**Rs.8,71,000/-**
	Already Allowed by Tribunal	Rs.5,90,000/-
	Enhanced compensation	**Rs,2,81,000/-**

Consequently, the appeal is allowed and the enhanced compensation of Rs.2,81,000/- shall be payable along with interest thereon at the rate of 7.5 % per annum from the date of filing of the claim petition till realization.

(ANUPINDER SINGH GREWAL)
JUDGE

January 10, 2023
A.Kaundal

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