

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**228****FAO No.3353 of 2016 (O&M)****Date of Decision : 10.01.2024**

Poonam

....Appellant

VERSUS

Satish and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. N.K. Malhotra, Advocate for the appellant.

Mr. Lekh Raj Nandal, Advocate for respondent No.1.

Mr. Sanjeev Goyal, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

1. The present appeal has been filed by the claimant-appellant challenging the award dated 16.02.2016 passed by the Motor Accident Claims Tribunal, Rohtak (hereinafter referred to as the 'Tribunal') whereby the Tribunal has awarded an amount of Rs.1,50,000/- as compensation for the death of a minor child of 2½ years of age.

2. Since the facts, as recorded in the impugned award passed by the Tribunal are not in dispute, the same are not being reproduced herein for the sake of brevity.

3. Learned counsel for the appellant would contend that the Tribunal has awarded an amount of Rs.1,50,000/- as compensation along with interest @ 7.5% per annum from the date of filing of the claim petition till realization on account of death of a minor child of 2½ years of age.

Learned counsel for the appellant has relied upon a judgment of the Hon'ble

Supreme Court in the case of **Kusmi Devi vs. Md. Kasim & Anr. [2023 ACJ 1658]** to contend that in the case of death of a 3 years old child in an accident the Hon'ble Supreme Court had awarded a lump sum compensation of Rs.6,00,000/-.

4. *Per contra* learned counsel for respondent No.3-Insurance Company has relied upon a judgment of this Court in the case of **Ravinder Kaur & Anr. vs. Roop Lal & Ors. [2006(4) RCR (Civil) 329]** to contend that for the death of a child, who was 4 years of age, a compensation of Rs.2,00,00/- was awarded by this Court.

5. I have heard learned counsel for the parties.

6. The Tribunal has awarded a lump sum compensation of Rs.1,50,000/- for the death of a 2½ years old child. The High Court in the case of **Kusmi Devi (supra)** had awarded an amount of Rs.5,00,000/- as compensation, which was enhanced by Rs.1,00,000/- by the Hon'ble Supreme Court. The judgment relied upon by learned counsel for respondent No.3-Insurance Company in the case of **Ravinder Kaur (supra)** pertains to an award passed in the year 1994 and the appeal in the said case was filed in the year 1999, which was decided in the year 2006, and hence would not be applicable. Keeping in view the judgment passed by the Hon'ble Supreme Court in the case of **Kusmi Devi (supra)**, I deem it appropriate to enhance the amount of compensation in the present case to Rs.6,00,000/-. The enhanced amount of compensation shall carry interest @ 7.5 % per annum from the date of filing of the claim petition till realization.

7. Learned counsel for respondent No.3-Insurance Company has submitted that Bharti Axa General Insurance Company Ltd. has now merged

in ICICI Lombard General Insurance Company Ltd. and the compensation shall be paid by ICICI Lombard General Insurance Company Ltd.

8. In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

10.01.2024

jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO