



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

205

FAO-2309-2006 (O&M)

Date of Decision: 30.01.2025

Rambir and another

.....Appellants

Vs.

Suresh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. B.S. Tewatia, Advocate
for the appellants.

Mr. Rajneesh Malhotra, Advocate
for respondent No.3-Insurance Company.

SUDEEPTI SHARMA J. (ORAL)

1. The present appeal has been preferred against the award dated 28.01.2006 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Rewari Sahib (for short, 'the Tribunal') for enhancement of compensation, granted to the appellants/claimants to the tune of Rs.1,00,000/-, alongwith interest at the rate of 7.5% per annum on account of death of Pinki, in a Motor Vehicular Accident, occurred on 03.07.2003.

2. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the learned Tribunal, a detailed narration of the facts of the case is not reproduced and is skipped herein for the sake of brevity.

**SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES**

3. The learned counsel for the appellants/claimants contends that the compensation assessed by the learned Tribunal is on the lower side. He further contends that deceased-Pinki was 12 years old and studying in 5th Standard and the Ld. Tribunal had totally ignored the future avenues available to the deceased had she been alive. He further contends:-

ii) That the learned Tribunal has not awarded any amount towards future prospects, loss of estate, loss of consortium and funeral expenses. Therefore, he prays that the present appeal be allowed and compensation be enhanced, as per latest law.

4. *Per contra*, learned counsel for respondent No.3-Insurance Company, however, vehemently argues on the lines of the award and contends that the amount of compensation as assessed by the Ld. Tribunal, has rightly been granted to the appellants/claimants. Therefore, he prays for dismissal of the present appeal.

5. I have heard learned counsel for the parties and perused the whole record of this case.

6. A perusal of the award shows that the Ld. Tribunal has erred in granting a lump-sum compensation of Rs.1,00,000/- on account of death of the deceased. The Ld. Tribunal had totally ignored the fact that the deceased girl was 12 years of age and a student of 5th Standard. Since the girl was a 13 years old student, it would be difficult to ascertain her proper income. This Court had already dealt with the same issue in **FAO-743-2007** titled as **Kalindi Devi and another Vs. Jasbir Singh and others**. The relevant portion of the same is reproduced as under:-



“10. The relevant paragraphs of the judgment passed by Hon’ble the Apex Court in Kusmi Devi Vs. Md. Kasim and another” are as under:-

“3. In respect of the death of a three years old child in the accident which occurred on 25.08.1994, the Motors Accidents Claims Tribunal (For short 'MACT') through its Award dated 13.02.2015 had granted the compensation of Rs. 1,50,000/- with interest @ 9% per annum. The High Court through its judgment dated 13.12.2018 has enhanced it to a sum of Rs.5,00,000/- as a global compensation.

4. In a matter of the present nature where the regular parameters of determining the compensation cannot be considered due to the uncertainties in life of a child and as held by this Court, the lump sum compensation is being awarded. Without prejudice to the contentions all the parties and in the interest of justice, we deem it appropriate to grant a further sum of Rs.1,00,000/- as global enhancement which shall be deposited by the respondent No.2- Insurance Company before the MACT concerned within a period of three weeks from the date of receipt of a copy of this judgment, whereupon the amount shall be disbursed to the claimant.”

ANALYSIS OF THE JUDGMENT

A bare reading of the judgment passed by Hon’ble the Supreme Court in Kusmi Devi (supra) shows that Hon’ble the High Court in a case of death of 3 years old child, enhanced the compensation granted by the Motor Accident Claims Tribunal to a sum of Rs.5 lakh as a global compensation. AND Hon’ble the Supreme Court further granted a sum of Rs. 1 lakh as a global



enhancement. Meaning thereby Hon'ble Supreme Court held that the total global compensation for the death of a three year old child is Rs.6 lakh.

11. *In view of the above referred to judgment passed by Hon'ble Supreme Court, the present appeal is allowed. The appellants-claimants are entitled to compensation to the tune of Rs.6 lakh. The award dated 03.11.2006 is modified accordingly.*

In view of the above referred to judgment, this Court deems it appropriate to grant a global compensation of Rs.6 lacs to the claimants/appellants on account of death of 12 years old girl.

ii). A perusal of the award further shows that the learned Tribunal has not awarded any amount towards future prospects, loss of estate, loss of consortium and funeral expenses. Therefore, the award requires indulgence of this Court.

RELIEF

7. In view of the above referred to judgment passed by Hon'ble Supreme Court, the present appeal is allowed. The appellants-claimants are entitled to compensation to the tune of Rs.6 lakh. The award dated 28.01.2006 is modified accordingly.

8. So far as the interest part is concerned, as held by Hon'ble Supreme Court in **Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma** 2019 ACJ 3176 and **R.Valli and Others VS. Tamil Nadu State Transport Corporation** (2022) 5 Supreme Court Cases 107, the appellants/claimants are granted the interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.



9. The respondent No.3-Insurance Company is directed to deposit the enhanced amount of compensation alongwith interest with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The Tribunal is further directed to disburse the enhanced amount of compensation alongwith interest in the accounts of the appellants/claimants, as per the ratio settled by the learned Tribunal in its award dated 28.01.2006. The appellants/claimants are directed to furnish their bank accounts details to the learned Tribunal.

10. Respondent No.3-Insurance Company is hereby directed to disburse the current scheduled fee to Mr. Rajneesh Malhotra, Advocate, within a period of 20 days from the date of receipt of the copy of this judgment, in view of the order dated 18.07.2024 passed in FAO No.1682 of 2007 by this Court.

11. Respondent No.3-Insurance Company was directed to pay the compensation in the first instance and liberty was granted to respondent No.3 to recover the same from respondent No. 2.

12. Disposed of accordingly.

13. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

30.01.2025

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Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No