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

FAO-5271-2017 (O&M)

Date of Decision: July 23, 2025

Rajbir and anr.

.....Appellants

VS.

Vikrant and ors.

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

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

Ms. Manvi Verma, Advocate for Mr. Rajneesh Malhotra, Advocate
for the respondent-Insurance Company.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 24.08.2016 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Gurgaon (for short, 'the Tribunal') for enhancement of compensation granted to the claimants to the tune of Rs.39,485/- along with interest @ 9% per annum, on account of death caused due to injuries suffered by Master Dev (since deceased) in a Motor Vehicular Accident, occurred on 20.10.2013.

FACTS NOT IN DISPUTE

2. Brief facts of the case are that on 20.10.2013, Santra Devi along with her son Ajay Pal and grand sons namely Dev, Yash and Dixit was going to village Mokalwas on motorcycle bearing registration No. HR-26-BV-9441 driven by her son Ajay Pal at a moderate speed and on correct side of the road. When they reached near Poultry Farm, a Mahindra XUV bearing registration No. HR-26-BR-0777 being driven by respondent No. 1 in a rash and negligent manner, came from back side and struck against the motorcycle. As a result of which, all the occupants of the motorcycle fell on the road and sustained multiple injuries. One Manoj alias Mannu witnessed the accident and informed younger son of Santra Devi. They



were admitted in Rockland Hospital, Manersar. However, Master Dev died during treatment on account of injuries sustained by him in the accident.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

3. Learned counsel for the claimants-appellants contends that the death of Master Dev was directly attributable to the accident in question. However, the learned Tribunal failed to appreciate this fact and erroneously awarded compensation solely for the injuries sustained, without considering the claim for compensation on account of his death resulting from the accident in question. He further contends that the compensation awarded is grossly inadequate in light of the nature and extent of the loss suffered, and therefore warrants substantial enhancement. Therefore, he prays that the present appeal be allowed and compensation be enhanced as per latest law.

4. Per contra, learned counsel for the respondent-Insurance Company, however, vehemently argues that the award has rightly been passed and the amount of compensation, as assessed by the learned Tribunal has rightly been granted. Therefore, she prays for dismissal of the appeal.

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

6. Before proceeding further, it is necessary to reproduce the relevant portion of the award, which reads as under:-

“23 Coming to the second petition titled "Rajbir and another versus Vikrant and others" filed on account of death of Master Dev. PW6 Rajbir, father of deceased, has stated that due to injuries his son was got admitted in Rockland Hospital, Gurgaon from 20.10.2013 to 22.10.2013 and 11.12.2013 to 19.12.2013 and he died thereafter due to the accidental injuries. He further deposed that a sum of Rs.3,00,000/- had



been spent on his treatment, treatment. medicines and funeral charges etc.

24. *The question for determination in this case is as to whether Master Dev had died due to accidental injuries or otherwise. Ex.P30 is the discharge summary of Master Dev which shows that he was admitted in Rockland Hospital, Manesar on 20.10.2013 and discharged on 22.10.2013. It was further mentioned in the discharge summary that patient was discharged in stable condition. condition. PW7 Doctor Gurdeep Singh has proved the said discharge summary. In cross-examination, he admitted that patient Master Dev had died due to fever and not due to the injuries sustained in the accident for which treatment was earlier taken by him and also proved death summary Ex.R1 in this regard. Ex.R1 reveals that patient Master Dev was admitted in the hospital on 11.12.2013 with complaints of fever, excessive drowsiness and abnormal involuntary stiffening movement since two days but he died on 19.12.2013. It is, thus, clear that Master Dev had not died due to the accidental injuries rather died due to the fever suffered by him subsequently.”*

7. A perusal of the impugned award reveals that the primary contention raised by the learned counsel for the appellants/claimants is that the learned Tribunal erred in rejecting their claim that the death of Master Dev was caused by accident in question, does not hold ground. The learned Tribunal upon a thorough appraisal of the evidence on record, rightly concluded that the cause of death was not attributable to the accidental injuries sustained earlier by Master Dev (since deceased).

8. The testimony of PW-7 Dr. Gurdeep Singh, who treated Master Dev (since deceased) proved the discharge summary (Ex. P30), is of utmost



significance. In his cross-examination, PW-7 Dr. Gurdeep Singh categorically stated that Master Dev died due to fever and associated complications and not as a result of injuries sustained by him in the motor vehicle accident. He further testified the contents of death summary (Ex. R1), which records the cause of death as fever, excessive drowsiness, and abnormal involuntary movements, ailments unrelated to the accident.

9. Despite the claim of the appellants to the contrary, no cogent evidence was led by the respondent to establish a direct or proximate link between the injuries suffered by Master Dev (since deceased) in the accident and eventual death of child. There is also no expert medical opinion on record rebutting the deposition of PW-7 Dr. Gurdeep Singh or suggesting that the injuries suffered by Master Dev (since deceased) from the accident had any role in causing or accelerating the death. In the absence of such evidence, the presumptions of causality advanced by the claimants/appellants remain speculative and unsubstantiated.

10. It is a settled proposition of law that the testimony of expert witness, particularly medical professional, should not be discarded lightly and must be given due weightage unless contradicted by strong or equally credible evidence.

11. In the present case, this Court finds no material contradiction or inconsistency in the testimony of expert witness i.e PW-7 Dr. Gurdeep Singh. As such, this Court concurs with the findings of the learned Tribunal that the death of Master Dev was unrelated to the accident, and no perversity or illegality is found in the said conclusion that would call for any interference in appellate jurisdiction.

12. Turning to the second limb of the argument advanced by learned counsel for the appellants with regard to inadequacy of the compensation awarded by the learned Tribunal, this Court finds substance in the arguments advanced by learned counsel for the appellants.



13. It is evident from the record that Master Dev (since deceased) did sustain injuries in the accident and was admitted to hospital twice for treatment. Though disability certificate is not on record and death has not been linked to the accident, the child-Master Dev (since deceased) undeniably underwent physical trauma and pain. The discharge summary and medical bills (Ex. P1, Ex. P30, Ex. P56 to P60, Ex. P62, Ex. P65) establish treatment expenditure of Rs. 24,485/-, and the learned Tribunal awarded an additional Rs. 15,000/- for pain and suffering. However, this compensation, aggregating to Rs. 39,485/-, appears to be on the lower side, particularly considering the age of the child-Master Dev (since deceased) and the duration of hospitalization.

14. The Motor Vehicles Act, 1988 is a beneficial legislation, and Courts are enjoined to adopt a liberal approach in awarding just compensation. Even in the absence of a fatal outcome linked to the accident, compensation ought to be fair and reflective of the physical and emotional suffering endured by the victim and their family.

15. In the interest of justice, and having regard to the fact that the child was hospitalized for multiple days and likely experienced considerable pain and discomfort, this Court is of the considered opinion that the compensation ought to be enhanced. Accordingly, a lump sum compensation of Rs. 2,00,000/- is awarded to the appellants/claimants, inclusive of medical expenses, pain and suffering under Section 166 of the Motor Vehicles Act, 1988.

16. In light of the foregoing discussion, this Court finds no infirmity or perversity in the conclusion of the learned Tribunal that the death of Master Dev was not caused in the accident in question. The finding is based on a sound appreciation of evidence and does not warrant any interference of this Court.

17. However, having regard to the overall circumstances of the case, and in the interest of justice, this Court deems it appropriate to enhance the



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compensation awarded by the Tribunal. Accordingly, the compensation is enhanced to a total sum of Rs. 2,00,000/- (Rupees Two Lakhs only).

18. Consequently, the present appeal is partly allowed. The award dated 24.08.2016 is modified accordingly. The appellants/claimants are entitled to the differential amount of Rs. **1,60,515/-** (200000-39485), which shall be payable to them along with interest at the rate of 9% per annum from the date of filing of the claim petition until the date of realization, in view of judgment of 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**.

19. The Insurance Company-respondent No. 3 is directed to deposit the enhanced amount of compensation along with interest with the Tribunal within a period of two months from the receipt of copy of this judgment. The Tribunal is directed to disburse the enhanced amount of compensation along with interest in the accounts of the claimants/appellants, as per award dated 24.08.2018. The claimants/appellants are directed to furnish their bank account details to the Tribunal.

20. However, respondent No.3-Insurance Company is entitled to recover the enhanced amount of compensation from respondent Nos. 1 and 2 i.e. driver and owner of the offending vehicle as per award dated 24.08.2016.

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

(SUDEEPTI SHARMA)
JUDGE

July 23, 2025

Gaurav Arora

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