

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****247****FAO-1092-2020(O&M)****Date of decision: 06.04.2026****Pawan Kumar & Another****...Appellant(s)****Vs.****Om Parkash & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. M.S. Randhawa, Advocate
for the appellants.

Mr. Gurqurban S. Sarao, Advocate
Mr. Vishal Aggarwal, Advocate
for respondent No.3/Insurance Company.

*********NIDHI GUPTA, J.**

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.6,30,000/- awarded by the Motor Accident Claims Tribunal, Narnaul (hereinafter 'the learned Tribunal') vide Award dated 12.09.2019 passed in MACT Case No.27RT dated 13.02.2019 filed under Sections 166 and 140 of the Motor Vehicles Act (hereinafter "the Act"). The 2 claimants are the 45-year-old father, and mother of deceased Himanshu, who was 10 years old at the time of accident.

2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that the deceased Himanshu had died due to the injuries



suffered by him in a motor vehicular accident that took place on 21.10.2018 due to the rash and negligent driving of Tractor bearing registration No.HR-35P-6827 (hereinafter “the offending vehicle”) being driven by respondent No.1, owned by respondent No.2, and insured by respondent No.3. The said compensation has been awarded along with interest @ 6% per annum. Respondents were held jointly and severally liable for payment of compensation.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that the appellants are entitled to compensation of Rs.50 lakh as claimed by them in the Claim Petition; whereas the learned Tribunal has awarded measly amount of Rs.6,30,000/- only, which is woefully inadequate and deserves to be enhanced. Learned Tribunal has awarded nothing under the head of future prospects. Interest is also on the lower side as only 6%; whereas it should be 24% and that too from the date of accident. It is accordingly prayed that the present appeal be allowed and compensation be modified as above.

4. Mr. Gurqurban S. Sarao, Advocate, appears on behalf of respondent No.3; and files Power of Attorney, which is taken on record. Learned counsel opposes the submissions advanced on behalf of the appellants and submits that the impugned Award does not deserve to be interfered with, as compensation in excess of what is payable to the



appellants as per law, has already been awarded. Therefore, the present appeal deserves to be dismissed.

5. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellants.

6. The record reveals that the Age of the deceased was determined to be 10 years at the time of accident on the basis of pleadings. He was stated to be studying in Class 5. Even in the Post-Mortem Report (Ex.P6), age of deceased was mentioned as 10 years. Accordingly, while relying upon judgment of Hon'ble Supreme Court in "**Kishan Gopal & Another Vs. Lala & Others**" 2013(4) RCR (Civil) 276 and judgment of this Court in "**Smt. Sushma & Another Vs. State of Haryana & Others**" 2014(2) RCR (Civil) 452, learned Tribunal had assessed notional income of the deceased to be Rs.30,000/- per annum. I find no error in the same.

7. Reference is also made to judgments of the Hon'ble Supreme Court in **Rajendra Singh and others vs National Insurance Company Limited and others, 2020 (3) RCR (Civil) 26** – wherein deceased was 12 years old and the Court had awarded compensation of Rs.2.95 lacs; and **Kishan Gopal supra** wherein deceased was 10 years old and compensation of Rs.5 lacs was awarded; and of this Court in **Shashi Bala vs Sudarshan Kumar and others, 2015 ACJ 1728** – wherein deceased was 17 years old and compensation of Rs.5.00 lacs was awarded.



8. The above-said legal position has been reiterated by the Hon'ble Supreme Court recently in "**Meena Devi Vs. Nunu Chand Mahto @ Nemchand Mahto & Others**" arising out of Special Leave Petition (Civil) **No.5345 of 2019 decided on 13.10.2022**, wherein the deceased was 12 years old child and it was held that:-

*"11. Recently in the case of **Kurvan Ansari @Kurvan Ali & another vs. Shyam Kishore Murmu and another (2022) 1 SCC 317**, wherein a child aged about 7 years died in a road accident took place on 6.9.2004, this Court taking notional income as Rs. 25,000/-, applying the multiplier of 15, calculated the loss of dependency as Rs. 3,75,000/- and adding Rs. 55,000/- in conventional heads, awarded Rs. 4,70,000/-.*

*12. In view of the foregoing decisions, it is apparent that in the cases of child death, the notional income of Rs. 15,000/- as specified in the IInd Schedule of M.V. Act has been enhanced on account of devaluation of money and value of rupee coming down from the date on which the IInd Schedule of M.V. Act was introduced and the said notional income was treated as Rs. 30,000/- in the case of **Kishan Gopal (supra)** and Rs. 25,000/- in **Kurvan Ansari (supra)** in age group of 10 and 7 years respectively.*

*13. Thus applying the ratio of the said judgments, looking to the age of the child in the present case i.e. 12 years, the principles laid down in the case of **Kishan Gopal (supra)** are aptly applicable to the facts of the present case. As per the ocular statement of the mother of the deceased, it is clear that deceased was a brilliant student and studying in a private*



school. Therefore, accepting the notional earning Rs. 30,000/- including future prospect and applying the multiplier of 15 in view of the decision of this Court in Sarla Verma (supra), the loss of dependency comes to Rs. 4,50,000/- and if we add Rs. 50,000/- in conventional heads, then the total sum of compensation comes to Rs. 5,00,000/- As per the judgment of MACT, lump sum compensation of Rs. 1,50,000/- has been awarded, while the High Court enhanced it to Rs. 2,00,000/- up to the value of the Claim Petition. In our view, the said amount of compensation is not just and reasonable looking to the computation made hereinabove. Hence, we determine the total compensation as Rs. 5,00,000/- and on reducing the amount as awarded by the High Court i.e. Rs. 2,00,000/-, the enhanced amount comes to Rs. 3,00,000/-."

9. Further, learned Tribunal has applied multiplier of 14; thereby calculating compensation to be Rs.4,20,000/-. Learned Tribunal has further awarded Rs.15,000/- towards loss of estate; Rs.15,000/- towards funeral expenses; Rs.40,000/- to each of the claimants towards loss of filial consortium; and Rs.50,000/- each to the claimants towards loss of love and affection; thereby granting total compensation of Rs.6,30,000/-. It is my view that learned Tribunal has already awarded compensation in excess of what is permissible to the appellants as per law.

10. Before parting, it may also be pointed out that in respect of the accident dated 21.10.2018, an FIR No.293 dated 21.10.2018 was registered under Sections 279 and 304A IPC at Police Station Ateli, against



respondent No.1 on the statement made by claimant No.1/father of the deceased. Vide judgement dated 15.12.2021 passed by learned Judicial Magistrate, 1st Class at Narnaul, Mahendergarh, respondent No.1 has been acquitted as the complainant/appellant no.1 has turned hostile: -

“7. The prosecution has examined as many as two witnesses in order to prove its case. PW-3 Pawan (complainant) was star witnesses of this case but he turned hostile and did not support prosecution version and even failed to identify the accused present in Court. PW-1 Inderjeet had also not seen the accident. Therefore, I am satisfied that in this case identification of the accused has not been established beyond reasonable shadow of doubt.”

11. A bare reading of the above facts shows that the claimant side has turned turtle on its previous statement. No doubt, proceedings under the Act have to be decided on the preponderance of probabilities. However, this Court cannot shut its eyes in an ostrich like manner to the starkly diametrically opposite stance taken by the claimants' side in the criminal trial. Thus, no credence can be attributed to the contrary statements made by the claimant side before the learned Tribunal. It would therefore appear that the claimant had deposed falsely before the Tribunal in regard to the rashness and negligence of the respondent no.1 only to get the compensation. In such a situation, reference may be made to a judgment of this Court in **“United**

**India Insurance Company Limited Vs. Kamla Devi & Others” (P&H) : Law**

Finder Doc Id # 251230, wherein it has been held that:

"5. It should still have been possible for the Tribunal to take a decision uninfluenced by any decision that may have come before the criminal court. The several decisions which have come about on this issue are to the effect that a judgment in a criminal court is not binding on the Tribunal; the non-filing of a FIR is not material; even the fact of involvement of the vehicle as found by the criminal court is not binding. While the Tribunal is competent to assess the evidence which is brought before it and take an independent decision, then the point that has to be seen is whether there was any evidence worth its name before the Tribunal to come a finding that the particular vehicle was involved in the accident. It can be either that the version of Sitar Mohd. cannot be relied for he has contradicted himself wholesale with the version given before the criminal court or looked for other evidence which was placed before the Court. Alternatively if any explanation had been given by the witness as to why he deposed falsehood before the criminal court, even such an explanation could have been accepted to enter a finding that the accident took place only involving the particular insured's vehicle. In this case, no explanation has been given by the witness as to why he stated before the criminal court that he did not know which vehicle was involved in the accident. He would, on the other hand, defy that he ever made any such statement before the criminal court, necessitating the statement made before the criminal court to be exhibited for contradiction before the Tribunal. It must be remembered a statement in criminal court case by a witness is also on oath. If he was uttering falsehood, he was liable for perjury. If there was



contradiction between the version elicited before the Tribunal to the statement made before the criminal court then such a witness will be unworthy of acceptance. The Tribunal could have simply rejected the whole evidence. If it was going to pick out one line from chief examination to say that the insured's vehicle was involved in the accident, the Tribunal was doing something which is not a judicial function but a travesty of justice."

12. The above said view has been reiterated by this Court in **"Shri Ram General Insurance Company Limited Vs. Jeeto Devi & Others"** FAO-2231-2014 decided on 03.12.2019, wherein it is held as under:-

*"(6) This Court cannot loose sight of the judgment rendered by this Court in the case of **United India Insurance Company Limited versus Kamla Devi and others**, wherein it was specifically held that in case an eye witness gives totally different version before the Court conducting trial in criminal case from the statement made by the said eye witness before the Tribunal, the testimony of such a witness is unworthy of being accepted and the evidence should be simply rejected. In fact, the learned Single Bench came down heavily on such witness and held that the said witness is also liable for perjury."*

13. I am in agreement with the abovesaid view taken by my worthy predecessors that the claimant side is liable for perjury for making contradictory statements before two Courts of Law.

14. Thus, no ground whatsoever is made out for enhancement of compensation.

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15. In view of the above, present appeal stands **dismissed**.
16. Pending application(s) if any also stand(s) disposed of.

06.04.2026

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No