

**HIGH COURT OF PUNJAB AND HARYANA
BENCH : HON'BLE MRS. JUSTICE RITU TAGORE
Date of Decision: April 3, 2024**

FAO-1222-2023 (O&M)

United India Insurance Company Limited

Versus

Parmod Saini and Others

Legislation:

Sections 279 and 304-A of the Indian Penal Code, 1860 – Motor Vehicles Act, 1988

Subject:

Appeal against the award of compensation for the death of a minor in a road accident, involving the determination of notional income and appropriate compensation.

Headnotes:

Motor Vehicle Accident - Compensation - Appeal against quantum of compensation awarded by Motor Accident Claims Tribunal (MACT) - Deceased, a 1.5-year-old child, fatally injured in a road accident caused by rash and negligent driving of the respondent - Award of compensation of ₹8,00,000/- granted by MACT - Insurance company, the appellant, sought reduction in compensation amount - Tribunal assessed notional income of deceased at ₹50,000/- per annum and applied multiplier of 15 - Appellant contended for reduction of notional income to ₹25,000/- per annum - Held, losing a child in an accident is an incomprehensible tragedy for parents - No amount of money can adequately compensate for such a loss - Compensation should be assessed based on the potential happiness and support the deceased child would have provided to the claimants - Tribunal's determination of notional income at ₹50,000/- per annum upheld - Appeal dismissed.

Decision: The appeal against the quantum of compensation awarded by the Motor Accident Claims Tribunal (MACT) is dismissed. The Tribunal's assessment of the notional income of the deceased child at ₹50,000/- per annum and the consequent grant of compensation are upheld.

Referred Cases:

- Meena Devi vs. Nunu Chand Mahto @ Nemchand Mahto and Others (SC) 2022(4) RCR (Civil) 553

- Kurvan Ansari @ Kurvan Ali and Another vs. Shyam Kishore Murmu and Another 2022(1) RCR (Civil) 165
- Mohan Lal and Others vs. Satyawan and Others, 2023 (2)PLR 668
- Kishan Gopal and Another vs. Lala and Others 2013(4) RCR(Civil) 276

Representing Advocates:

Mr. Maninder Arora for appellant/Insurance Company

Mr. Ashish Gupta for respondents/claimants No. 1 and 2

**** RITU

TAGORE, J.

1. This is an appeal filed by the insurance-company, seeking reduction in compensation amount granted in the award dated 06.12.2022, passed by Motor Accident Claims Tribunal, Panipat (hereinafter referred to as ‘the Tribunal’).
2. Brief facts relevant to the decision of this appeal are as follows:-
“On 08.12.2020, deceased Manvi, aged 1.5 years, daughter of claimants, was playing in the street in front of her house, when an offending car bearing No.HR-06-AV-6313, driven by respondent No.1 in a rash and negligent manner came there and collided with her. She was crushed under the tyres of the car and suffered multiple injuries, and ultimately succumbed to them.”
3. Regarding the accident, FIR No.0747 dated 08.12.2020 under Sections 279 IPC and 304-A IPC, 1860 was registered against respondent No.1 at Police Station, Chandnibagh District Panipat, on the statement of the father of deceased.
4. Upon receiving notice, respondents No.1 to 3 (driver, owner and insurer) filed their respective replies, denying the occurrence of accident and pleaded false implication of respondent No.1/driver in the accident, in collusion with the police. Additionally, the Insurance Company/respondent No.3, alleged violation of terms and condition of insurance policy by pleading that respondent No.1 had no valid and effective driving licence at the time of the

accident. By denying all other averments regarding the entitlement of claimants to compensation, prayed for dismissal of the petition.

5. From the pleadings of the parties, learned Tribunal framed the following issues:-

1. *Whether the accident took place on 08.12.2020 on account of rash and negligent driving of vehicle bearing registration No. HR-06-AV-6313 by respondent No.1 resulting into the death of Manvi? OPP*

2. *If issue No.1 is proved in affirmative, whether the claimants are entitled for compensation, if so to what amount and from whom? OPP*

3. *Whether respondent No.1 was not holding a valid and effective driving licence at the time of accident and the insured has violated the terms and conditions of insurance policy, if so its effect? OPR-3*

4. *Relief.*

6. After assessing the evidence presented by the parties on the framed issues, learned Tribunal held respondent No.1/driver responsible for causing the accident and resultant death of deceased Manvi. Further, taking a notional income of `50,000/- per annum for the deceased and applying a multiplier of 15, learned Tribunal granted compensation of `8,00,000/- to the claimants-parents, along with interest at 9 % per annum from the date of filing of the petition till realization.

7. Learned counsel for the insurance company by placing reliance on ***Meena Devi vs. Nunu Chand Mahto @ Nemchand Mahto and Others (SC) 2022(4) RCR (Civil) 553*** and ***Kurvan Ansari @ Kurvan Ali and Another vs. Shyam Kishore Murmu and Another 2022(1) RCR (Civil) 165***, urges that award amount should be reduced by estimating the notional income of deceased, aged 1.5 years, to `25,000/- per annum and prayed for a re-determination of the compensation.

8. Opposing the submissions, learned counsel for the claimants submits that just and fair compensation has been awarded to the claimants who lost their minor child, who would have undoubtedly been a significant source of happiness and support to them throughout their lives. To support his plea, he

has referred to authority ***Mohan Lal and Others vs. Satyawan and Others, 2023 (2)PLR 668.***

9. I have heard learned counsel for the parties and have gone through the record minutely.
10. There is no dispute that claimants lost their child, Manvi, aged 1.5 years, who died in a roadside accident, caused by respondent No.1 while driving the offending vehicle HR-06-AV-6313 in a rash and negligent manner.
11. Losing a child in an accident is an unfathomable tragedy for the parents. The anguish and grief that accompany such a loss are profound and enduring, leaving parents grappling with emotion that often defy description. Every aspect of their lives is touched by the absence of their beloved child, from the empty spaces in their home to the haunting silence of their once vibrant laughter. Furthermore, in a case of a death of a child, no amount of money can compensate poor parents. Moreover, income of minor child is incapable of precise fixation. In the case of ***Meena Devi vs. Nunu Chand Mahto @ Nemchand Mahto and Others (SC) 2022(4) RCR (Civil) 553***, Hon'ble the Supreme Court awarded total compensation of `5 Lakhs on account of death of a minor child. Also, observed that in place of issuing any guidelines for determination of compensation in case of a death of a child, it should be left open to be decided in the facts and circumstances of each case. In ***Kishan Gopal and Another vs. Lala and Others 2013(4) RCR(Civil) 276***, a child about 10 years had died in a road side accident in the year 1992. Hon'ble the Supreme Court while deciding the case in the year 2013, made a departure from the II Schedule of the Act and enhanced the notional income from `15,000/- to `30,000/- by observing the value of rupee has been declined drastically since 1994, when notional income `15,000/- was fixed in the II Schedule of the Act.
12. Considering the constant rise in prices of all the essential commodities of life and drastic depreciation of the value of the Indian currency, the learned Tribunal's determination of the notional income of deceased, aged 1.5 years,

at `50,000/- per annum cannot be taken on higher side. The claimant-father is a worker in a factory and mother is a house – wife. They belong to the economically weaker section of society. In such circumstances, the child was another source of manpower in a family, a resource that has been diminished with her untimely death. Furthermore, determination should not depend upon the financial position of the victim or the claimant, rather on the capacity and ability of deceased to provide happiness in the life of claimants. If the child had remained alive, she would have become a source of support and happiness for her parents in evening of their lives. The compensation is granted to compensate loss of perspective happiness which the claimant would have enjoyed had the child not died at such an infant stage. The parents, as claimants, have been left to grapple with shattered dreams and unfulfilled potential of a life cut tragically short, mourning not only loss of their child but also the loss of all the hopes and aspirations they held for their future together.

13. In view of the facts and circumstances of the case as noticed above, to my considered opinion, the learned Tribunal has rightly taken the notional income of the deceased as `50,000/- and rightly granted compensation as assessed. No ground is made out to reduce the assessed amount of compensation.
14. As an upshot of aforesaid discussion, there is no merit in appeal, same is hereby dismissed.
15. Pending miscellaneous application, if any, stand disposed of.

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