In the High Court of Punjab and Haryana at Chandigarh

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F.A.O. No.1086 of 2012

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Date of decision:3.7.2015

Rajender Singh and another

.....Appellants

v.

Mohmad Jameel and others

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Ashok K. Jindal, Advocate for the appellant.

Mr. M.B. Jain, Advocate for respondent No.3-Insurance Company.

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Inderjit Singh, J.

This appeal has been filed by Rajender Singh and Mukut Devi-appellants against Mohmad Jameel-Driver, Puranmal Gurjar-owner and United Insurance Company Ltd.-insurer of offending Trolla No.HR-47-A-6163 (hereinafter referred to as `the offending vehicle') and Karan Singh-driver, Kushal Singh-owner and Oriental Insurance Company Limited-insurer of motorcycle challenging the award dated 8.12.2011 passed by the Motor Accident Claims Tribunal (Fast Track Court), Narnaul, (hereinafter referred to as `the Tribunal'), for enhancement of amount of compensation i.e. ₹4,20,000/- passed by the Tribunal against respondents No.1 to 3 i.e. driver, owner and insurance company of the offending trolla only along with interest @6% per annum.

Notice of motion in this case was issued to respondent No.3-Insurance Company and Mr. M.B. Jain, learned Advocate has put in appearance on behalf of it and contested this appeal.

At the time of arguments, learned counsel for the appellants-claimants argued for enhancement of the compensation in view of the law laid down by the Hon'ble Supreme Court in Kishan Gopal and another v. Lala and others, 2013(4) R.C.R. (Civil) 276.

Learned counsel for the Insurance Company admitted the liability to pay the compensation amount being insurer of the offending trolla and has argued that adequate compensation has already been awarded by the Tribunal.

After hearing learned counsel for the parties and after going through the record, I find that the accident had taken place on 8.6.2009 at about 6.30 p.m. Nisha Kumari aged 17 years, who was a student and daughter of the claimants, was going on motorcycle Bajaj Discover as a pillion rider and motorcycle was being driven by her uncle Karan Singh. Trolla bearing registration No.HR-47-A-6163 (offending vehicle) driven in a rash and negligent manner by respondent No.1 came from behind and hit the motorcycle. On account of aforesaid collision, Nisha Kumari fell down on the road and came underneath the tyre of the trolla. The FIR of the accident was lodged in Police Station, City Narnaul on 8.6.2009. The compensation of ₹25 Lacs was claimed.

The learned Tribunal after taking the notional income of Nisha

Kumari as ₹15,000/- awarded ₹2,70,000/- by applying the multiplier of 18 and further compensation of ₹75,000/- was awarded as future prospectus and ₹75,000/- was awarded as compensation for non-pecuniary damages. Learned counsel for the Insurance Company has not produced any law to support his arguments. As per the law laid down by the Hon'ble Supreme Court in Kishan Gopal and another v. Lala and others (supra), since the age of the child was 10 years, the Hon'ble Supreme Court has taken the notional income at ₹30,000/- by holding that had the deceased child been alive, he would have contributed substantially to the family of the appellants by working hard.

Keeping in view the law laid down by the Hon'ble Supreme Court, I find force in the argument of the learned counsel for the appellants. The notional income of the deceased is to be taken as ₹30,000/-. As regards the multiplier of 18 years applied by the Tribunal, there is no dispute between the parties with regard to the same. Therefore, by applying the multiplier of 18, the compensation amount comes to ₹5,40,000/- instead of ₹2,70,000/- granted by the Tribunal. The appellants are also entitled to the remaining amount awarded by the Tribunal of ₹75,000/- as future prospectus and ₹75,000/- as non-pecuniary damages which also include the loss of love and affection, funeral expenses etc. Therefore, the appellants are entitled to compensation of ₹6,90,000/- instead of ₹4,20,000/-. The appellants are also entitled to interest as awarded by the Tribunal on the enhanced amount also from the date of the claim petition till actual payment. The Insurance Company is directed to pay the enhanced amount of compensation to the appellants accordingly.

The appeal is disposed of accordingly.

July 3, 2015.

(Inderjit Singh)
Judge

hsp