

In the High Court of Punjab and Haryana at Chandigarh

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F.A.O. No.1442 of 2013 (O&M)

.....

Date of decision:3.7.2015

Santosh and another

.....Appellants

v.

Rajbir and others

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Rakesh Lathwal, Advocate for the appellants.

Respondent No.1 ex-parte.

Mr. Surender Singh, Assistant Advocate General for
respondents No.2 and 3.

Ms. Vandana Malhotra, Advocate for respondent No.4.

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Inderjit Singh, J.

This appeal has been filed by Santosh and Hoshiar Singh-appellants against Rajbir-Driver, G.M. Haryana Roadways, Sonapat and State of Haryana through its Collector, Sonapat-owners of bus No.HR-69A-6111 (hereinafter referred to as the 'offending bus') and New India Assurance Company Limited-insurer of the offending bus for enhancement of the compensation awarded by the Motor Accident Claims Tribunal Sonapat, (hereinafter referred to as 'the Tribunal') vide award dated 4.2.2013.

Santosh and Hoshier Singh filed the claim petition against Rajbir, G.M., Haryana Roadways, State of Haryana and New India Assurance Company Limited-respondents under Section 166 of the Motor Vehicles Act, 1988 seeking compensation to the tune of ₹10 Lacs on account of death of their daughter Pooja aged about 17 years in a motor vehicle accident, which took place on 12.3.2012 due to rash and negligent driving by driver of bus bearing registration No.HR-69A-6111. Pooja died at the spot due to injuries suffered in the accident. The FIR was also registered against the driver of the bus.

The learned Tribunal on the basis of evidence produced by the parties awarded an amount of ₹2,18,000/- along with interest @7.5% per annum from the date of the claim petition till actual realization.

The learned Tribunal had taken the notional income of the deceased at ₹24,000/- per annum and after making 1/3rd deductions and by applying the multiplier of 13 awarded ₹2,18,000/- including ₹10,000/- for funeral expenses and transportation charges. Aggrieved from this award, the appellants-claimants have filed this appeal for enhancement of the compensation.

Notice of motion in this case was issued. Respondent No.1 was proceeded against ex parte. Mr. Surender Singh, learned Assistant Advocate General has appeared on behalf of respondents No.2 and 3 and Ms. Vandana Malhotra, learned Advocate has appeared for respondent No.4-Company and contested this petition.

At the time of arguments, learned counsel for the appellants-claimants argued that the compensation of ₹5 Lacs should have been

granted by the learned Tribunal 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, wherein the Hon'ble Supreme Court has observed that the age of the child was 10 years and 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, whereas the age of the deceased in this case is 17 years.

On the other hand, learned counsel for respondents No.2 and 3 as well as learned counsel for the respondent No.4-Insurance Company have not shown any other law in rebuttal to this judgment.

I have gone through the above said law laid down by the Hon'ble Supreme Court in Kishan Gopal and another v. Lala and others (supra). The law laid down in this case fully applies to the facts of the present case. Here also the deceased was a student and minor and having no income at the time of her death. Therefore, her notional income should have been taken at ₹30,000/- per annum and the learned Tribunal has wrongly made the deductions of 1/3rd out of the notional income. Therefore, by taking the notional income as ₹30,000/- and by applying the multiplier of 15, the compensation amount comes to ₹4,50,000/- and further the claimants are entitled to ₹50,000/- under the conventional heads i.e. loss of love and affection and funeral expenses etc. Therefore, the appellants-claimants are entitled to enhancement of the compensation from ₹2,18,000/- to ₹5 Lacs.

[4]

The appeal is accepted accordingly. All the respondents are jointly and severally liable to pay this enhanced amount along with interest as awarded by the learned Tribunal from the date of the claim petition till actual payment.

The appeal is allowed partly.

July 3, 2015.

(Inderjit Singh)
Judge

hsp