

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

RSA No. 5485 of 2015 (O&M)

Date of decision: 10.12.2015

Sukhmander Singh @ Mander Singh and another

... Appellants

versus

Kartar Kaur and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. A.P. Kaushal, Advocate for the appellants.

K.Kannan, J.

CM No. 14815-C-2015

CM is allowed.

Appeal is restored to file

Main Appeal

The suit for damages brought at the instance of the appellant's grandmother and all the residents of Village Seikhpura was on the plea that the defendants kidnapped the son of plaintiff Nos. 2 and 3 and caused his murder. There was a claim of Rs. 10,00,000/- and the Court after examining the evidence brought found that the defendants were responsible for the abduction of plaintiff's son and caused his death. As a corroborative piece of evidence, the plaintiffs were referring to the fact that the defendants had been prosecuted for

offences under Section 302 IPC and other related offences and convicted by the judgment passed by the trial Court. It would appear that the defendants have preferred an appeal against the trial Court judgment to this Court and the case is still pending.

The Court, while assessing the cause of death, had made reference to the post mortem certificate and the doctor's evidence, apart from the fact that the witnesses stated that the death was on account of the defendants' acts. The deceased was stated to be a student doing 1st year in Bachelor of Computer Applications and his educational prowess was spoken to by the Senior Assistant, Panjab University where the deceased was studying. Assessing that the defendants were responsible for the death, the trial Court had granted the compensation of Rs. 3,00,000/- and the defendants pay the sum with interest @ 8% from the date of the suit till the date of the payment. In the appeal filed, the compensation regarding the liability was confirmed and the amount of compensation was also enhanced from Rs. 3,00,000/- to Rs. 7,00,000/-.

The contention raised by the learned counsel for the appellants-defendants is that the suit had not been brought under Fatal Accidents Act and if it were to be assumed that the basis of claim were under the Fatal Accidents Act, there was not scope for any compensation to be awarded in favour of the grandmother. The plaintiffs who filed the suit seeking for recovery of damages against the defendants on the basis of the defendants were the assailants that cause the death, we require very little forensic exercise to discern that the

claim was made under the law that provides for the loss to the representatives of the deceased to make a claim for compensation against the person who was responsible for causing the fatality to the person. I have no difficulty in accepting that the grandmother could not have been a representative under the Fatal Accidents Act, but as far as the defendant is concerned, the presence of the grandmother makes no difference because it is merely a matter of apportionment among the persons and it will have no effect for abating any part of the claim. If the respondents themselves were prepared to share the compensation assessed by the Court with their own mother then the appellants cannot plead for rejection of liability by citing that the grandmother could not have been made a party. The scales of compensation for death or injury has gone through several new approaches by judicial pronouncements. In the present dispensation for examining claims to compensation for death in motor accidents, the Courts have provided for loss of love and affection for the appellants to be determined at Rs. 1,00,000/-. The assessment have due regard to the social and economic status of the parties and the educational attainments of the deceased person. To the parents of the son who was a student of medical college, the Supreme Court was providing for a prospect of income that he could earn Rs. 25,000/- per month and have awarded Rs. 20,00,000/- as compensation in Ashvinbhai Jayantilal Modi Vs. Ramkaran Ramchandra Sharma, 2015 2 SCC 180. Persons of lesser educational attainments such as engineering college or Bachelor degree have been approached by the

Supreme Court with awards in the range of Rs. 10 to 15 lacs. Some of the recent decisions in Dabwali Fire incident and Uphaar Fire accident the compensation awarded to the representatives of the deceased persons irrespective of economic or social status were Rs. 7,50,000/- with interest. A student in computer application degree where there is also evidence available from a Senior Assistant from the University of the Course that the student was pursuing the course in the College, the Court would be justified even in assuming that he would have earned after completion of course any amount not less than Rs. 10,000/- and if a reckoning were to be made by taking the age of the person a multiplier of 18 it would have yielded a sum far more than what was assessed by the Court. I will, therefore, reject an argument which is placed by the counsel before me that Rs. 7,00,000/- is on the higher side. There is simply no scope for scaling down the compensation assessed at Rs. 7,00,000/- to any sum lesser than the said sum.

There is no merit in the appeal and the decision of the Lower Appellate Court is confirmed. The regular second appeal is dismissed with above observations.

10.12.2015

kv

(K.KANNAN)
JUDGE