

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

CM No.18321-CII of 2016 in/and

FAO No.477 of 2014

Date of decision : 05.10.2016

Smt. Balwinder Kaur and others

.....Appellants

Versus

Man Bahadur and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Rakesh Kumar, Advocate for applicants-appellants.

Mr. Lalit Garg, Advocate for respondent No.3-
Insurance Company.

DARSHAN SINGH, J.

CM No.18321-CII of 2014

This application has been filed under Order 41 Rule 19 read with Section 151 of the Code of Civil Procedure, 1908 for restoration of the present appeal.

Heard on the application.

Learned counsel for the respondent-Insurance Company has no objection in restoration of the present appeal. Thus, the present application is hereby allowed. The main appeal is ordered to be restored at its original number.

Main Appeal

The present appeal has been preferred against the award dated 03.10.2013 passed by the learned Motor Accidents Claims Tribunal, Jalandhar (hereinafter called the “Tribunal”), vide which appellants-claimants have been awarded a sum of Rs.4,83,000/- as compensation on account of death of Anhad Singh in the motor vehicular accident which took place on 10.03.2011.

2. The present appeal has been preferred by the appellants-claimants for enhancement of the amount of compensation.
3. I have heard learned counsel for the parties and have gone through the record of the case meticulously.
4. Learned counsel for the appellants-claimants contended that learned Tribunal has not awarded the just amount of compensation. He contended that the deceased was a student of 8th Class. He was 13 years of age. He was an outstanding student. Learned Tribunal has not awarded an appropriate compensation under the conventional heads. The interest has also been awarded on the lower side.
5. On the other hand, Mr. Lalit Garg, Advocate, learned counsel for the respondent-Insurance Company contended that the deceased was a child of 13 years of age. He was a student and was not having any income. The learned Tribunal has awarded a sum of Rs.4,83,000/- as compensation which is just compensation.
6. I have duly considered the aforesaid contentions.

7. This fact is not disputed that deceased Anhad Singh was 13 years of age at the time of his accidental death. He was student of 8th Class. So, he was a non-earning person and only the notional income of the deceased was to be taken into consideration in order to work out the compensation. In addition to that the claimants were also entitled for compensation under conventional heads like loss of love and affection, funeral expenses and last rites expenses.

8. The Hon'ble Apex Court in case ***Kishan Gopal and another Vs. Lala and others 2013(4) RCR (Civil) 276*** has awarded a sum of Rs.5,00,000/- as compensation in case of death of a child of 10 years. He was also rendering assistance to his parents in agricultural occupation. The aforesaid judgment of the Hon'ble Apex Court is fully applicable to the case in hand. So, the amount of compensation awarded by the learned Tribunal is enhanced to Rs.5,00,000/-. The Hon'ble Apex court in case ***Kishan Gopal and another*** (supra) has awarded the interest at the rate of 9% per annum. So, the appellants-claimants in the instant case shall also be entitled to interest at the rate of 9% per annum.

9. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed and the amount of compensation payable to the appellants-claimants is hereby enhanced to Rs.5,00,000/- from Rs.4,83,000/- as awarded by the Tribunal. The appellants-claimants shall be entitled to interest at the rate of 9% per annum from the date of filing the petition till realisation. The liability to pay the enhanced amount of

compensation and the apportionment amongst the claimants shall also remain same as determined by the learned Tribunal in the main award.

05.10.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No