

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

FAO-3047-2013 (O&M)

Date of decision: 28.4.2017

Devi Chand and another

...Appellants

Versus

Kulwinder Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Sanjiv Gupta, Advocate for the appellants

Ms.Sukhpreet Kaur, Advocate for respondents No.1 & 2

Mr.Arun Sharma, Advocate for respondent No.3.

SNEH PRASHAR, J.

The present appeal had been filed by claimants (parents of deceased Harsh, a child aged 9 years), seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Panchkula (for short, “the Tribunal”) vide the award dated 20.4.2013 passed in MACT Case No.241 dated 5.8.2011.

The submissions made by Mr.Sanjiv Gupta, Advocate representing the appellants; Ms. Sukhpreet Kaur, Advocate for respondents No.1 & 2 and Mr.Arun Sharma, Advocate for respondent No.3 have been considered and record perused.

Learned counsel for the appellants argued that the deceased was aged 9 years and was 4th class student. Learned Tribunal without assessing the factors causing pecuniary and non-pecuniary loss to the appellants had awarded a lump sum amount of Rs.2.5 lacs, which is on

the lower side.

On the other hand, learned counsels for the respondents submit that the compensation awarded by learned Tribunal is just and appropriate as the deceased was a non earning member of the family.

The fact that Harsh was aged 9 years and he died due to the injuries suffered by him in a roadside accident, is not in issue. The grievance of the appellants is that they had not been adequately compensated.

In Kishan Gopal and another vs. Lala and others, 2013

(4) R.C.R. (Civil) 276 the deceased was a boy aged 10 years. The Hon'ble Supreme Court by taking the notional income of the child as Rs.30,000/- per annum and applying the multiplier of '15' as provided in the Second Schedule of the Motor Vehicles Act, 1988, awarded a sum of Rs.4,50,000/-. In addition to same, Rs.50,000/- was allowed under the conventional heads.

In the case in hand, the deceased was a student of Class IV. He was a non-earning person. As such, following the ratio of **Kishan Gopal and another's case (supra)**, the compensation awarded by learned Tribunal is enhanced from Rs.2,50,000/- to Rs.5,00,000/- (Rs.4,50,000/- plus Rs.50,000/- under conventional heads).

Accordingly, the enhanced compensation of Rs.2,50,000/- shall be paid to the claimants-appellants within two months from the date of receipt of the certified copy of this judgment, failing which, it shall carry interest @ 7.5 % per annum from the date of filing of the appeal, till its realisation.

With the above modification in the impugned award, the present appeal is partly allowed.

28.4.2017
gsv

(SNEH PRASHAR)
JUDGE

Whether speaking / reasoned? Yes / No

Whether reportable? Yes / No