

In the High Court of Punjab and Haryana at Chandigarh

**F.A.O No. 4990 of 2013
Date of Decision: 20.1.2017**

Shanti Devi and another

.....Appellants

Versus

Rakesh Kumar and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Ayush Gupta, Advocate
for the appellants.

None for respondent No. 2.

Mr. Gaurav Jindal, Advocate
for respondent No. 3.

ANITA CHAUDHRY, J (ORAL)

Claimants have filed this appeal questioning the correctness of the award passed by the Motor Accident Claims Tribunal which had allowed meagre amount of compensation for the death of their six years old daughter. The Tribunal vide its award dated 6.5.2013 had allowed Rs. 1,00,000/- along with interest @ 9% per annum.

It is not necessary to go into the facts as the only dispute is whether the amount awarded by the Tribunal was adequate. The counsel has placed reliance on '*Kishan Gopal and another versus Lata and others 2013(4) Civil Court Cases (SC) 334*' and had urged that it was a case where the claimants had lost their son at the age of 10 years in a motor vehicle accident and an award of Rs. 5,00,000/- had been passed and it had been

held that had the deceased been alive he would have contributed substantially to the family and he was assisting the family in agricultural occupation which was an undisputed fact and in the present case the girl was only six years, they were entitled to more compensation.

As against it respondent No. 3 had relied upon '***Amar Singh versus Ranbir Singh and others 2011(5) R.C.R. (Civil) 227***'.

Neeraj Rani was aged five years at the time of her death. The Tribunal awarded a lump-sum amount of Rs. 1,00,000/-. The accident had taken place in March 2011. The child was crossing the road to take some articles from a shop when the tanker came and struck against her and snuffed her life. The child had died on the spot. Father Madan Lal was a labourer. The child was studying in the second class in a government school. School transfer certificate Ex. P6 was tendered in evidence.

Hon'ble Supreme Court in the case of ***Lata Wadhwa & Ors. Vs. State of Bihar & Ors., 2001(4) RCR (Civil) 673*** after noticing the submissions made on behalf of TISCO, noted the environment in which the children referred to in that case were brought up and found that the parents were reasonably well placed officials of TISCO and calculated the compensation and awarded some amount under the conventional heads.

In my considered view, the legal principles laid down in *Lata Wadhwa's* case (supra) with all force is applicable to the facts of the present case. The deceased was just 5 years old. She could not have assisted the parents as she was too small, therefore, the notional income cannot be taken at Rs. 15,000/- per annum. No cut should be made and the multiplier of 15 has to be applied and the compensation if calculated comes to Rs. 2,25,000/-. To this amount, a conventional sum has to be added for

non-pecuniary damages. In the case of ***R.K. Malik and another Vs. Kiran Pal AIR 2009 (SC) 2506***, the Hon'ble Apex Court upheld the judgment of Delhi High Court upholding the award of non pecuniary damages of Rs. 75,000/- in addition to the compensation allowed for the death of the child.

Though, there is no yardstick to measure the loss of future prospects of the child but where the claimants are able to lead evidence to show that the child was performing well then there is some yardstick to measure the loss and as the natural consequences the compensation can be higher but there can be no golden rule applicable to all the cases for measuring the value of human life or limit. For children under the age of 10, a composite amount is awarded. After adding Rs. 75,000/-, the compensation would come to Rs. 3,00,000/-. The Tribunal had awarded Rs. 1,00,000/- which would be deducted and the remaining amount would be paid with interest at the same rate of interest as awarded by the Tribunal from the date of filing of the petition till realization.

The appeal is allowed.

Lower Court record be sent back.

(ANITA CHAUDHRY)
JUDGE

January 20, 2017
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No