

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No. 4256 of 2007 (O&M)

Date of Decision: 18.05.2018

Rajni Bala and another

.....Appellants

Versus

Rajesh Kumar @ Raj Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Dinesh Saini, Advocate for
Mr. Pritam Saini, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate
for Insurance Company-respondent No.3.

AVNEESH JHINGAN, J.(oral)

The present appeal is against award dated 28.04.2007 passed by the Motor Accident Claims Tribunal, Ludhiana (for short 'the Tribunal').

The record of this appeal was burnt and from the salvaged record of the partially burnt cases, the same was reconstructed subject to all just exceptions and further verification

The unfortunate parents, who lost their 10 years son Ravi in a motor vehicular accident that took place on 06.04.2002 are in appeal for enhancement of compensation.

The brief facts of the case are that on 06.04.2002 Ravi and Prince were travelling in a Tempo bearing registration No.PB-10-AU-4128. The said Tempo was being driven in a rash and negligent manner. The driver lost control and the Tempo fell into a ditch 15-20 feet deep. As a result of injuries suffered in the accident, Ravi died at the spot. FIR No. 28 dated 06.04.2002 was registered at Police Station Bagana.

A claim petition was filed under Section 166 of the Motor

Vehicles Act, 1988 (for short 'the Act'). The Tribunal awarded a sum of Rs.1,80,000/- along with interest at the rate of 7.5% per annum.

The present appeal has been filed for enhancement of compensation.

The grievance raised is that the Tribunal has not applied the multiplier method and has awarded a lumpsum amount and no amount has been awarded for funeral expenses.

Learned counsel for the insurer contended that the deceased was not earning and in such circumstance, the tribunal has no option except to award lumpsum amount.

The Tribunal erred in awarding a lumpsum amount in case of death of a minor. The Hon'ble Apex Court in ***Krishan Gopal and another vs. Lala and others, 2014(1) SCC*** has held that in case of a death of a child below 15 years of age, minimum income what is required to be considered is Rs.15,000/- per annum as per IInd Schedule to the Act. The Hon'ble Apex Court in ***Reshma Kumari and others vs. Madan Mohan and another, 2013 (9) SCC, 65*** has held that where the deceased was below 15 years of age, multiplier of 15 has to be applied.

In catena of judgments, the Hon'ble Apex Court has held that the multiplier method should be adopted for awarding compensation as it is the most consistent and scientific method.

In the present case, neither any multiplier method was applied nor any compensation was awarded for funeral expenses.

Keeping in view the fact that the deceased was below 15 years of age, his earning is taken as Rs.15,000/-per annum and multiplier of 15 is applied. The annul earning of the deceased is taken as Rs.15,000/-as there

was no evidence worth reliance produced before the Tribunal to establish that apart from being student of Class IX, the deceased was indulged in some occupation or was having some source of income. The compensation is recalculated as under :-

Annual income	Rs.15000/-
Applying multiplier of 15	Rs.2,25,000/-
Funeral expenses	Rs.15,000/-
Total	Rs.2,40,000/-

The award dated 28.04.2007 is modified to the extent that the amount awarded by the Tribunal of Rs.1,80,000/- is enhanced to Rs.2,40,000/-.

The claimants would be entitled to enhanced amount along with interest as awarded by the Tribunal from the date of filing the claim petition till the realization of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

18.05.2018
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Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No