

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

229

FAO No.4790 of 2016

Date of decision: 13.09.2018

Bhagwati and Another

...Appellants

Vs.

Balwan Singh and Others

...Respondents

CORAM:HON'BLE MR. JUSTICE B.S. WALIA

Present:Mr. Mukesh Yadav, Advocate
for the appellants

Mr. Sanjeev Kodan, Advocate
for the Insurance Company.

B.S. WALIA, J.(ORAL)

1. Learned counsel by relying upon the decision of Hon'ble the Supreme Court in ***Kishan Gopal & Another Vs. Lala and Another 2014 (1) SCC 244*** contends that compensation of ₹2,75,000/- awarded on account of death of 13 years old girl is on the lower side and the same is liable to be enhanced to ₹4,80,000/-.

2. Notice of motion on the limited aspect of the matter for final disposal.

3. Learned counsel further states that since recovery rights have not been given to the Insurance Company, therefore,

respondent Nos. 1 and 2 i.e. Driver and Owner are not necessary parties, therefore, their service be dispensed with.

4. Ordered accordingly.

5. Mr. Sanjeev Kodan, Advocate present in Court accepts notice on behalf of respondent No.3-Insurance Company and states that he has no objection if the matter is taken up for consideration and decision today itself. Accordingly with the consent of counsel the case is taken on Board for final disposal.

6. Admittedly the deceased was a 13 years old girl. The learned Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal') by taking notional income of the deceased at ₹15,000/- per annum and by applying multiplier of 15 worked out dependency of ₹2,75,000/- and by awarding a further sum of ₹25,000/- on account of funeral expenses awarded a total compensation of ₹3,00,000/-.

7. In ***Kishan Gopal & Another Vs. Lala and Another 2014 (1) SCC 244*** Hon'ble the Supreme Court by taking into account that deceased was 13 years old and was assisting her parents in agricultural occupation took notional income of the deceased at ₹30,000/- per annum and further by taking the age of the mother applied multiplier of 15 and accordingly worked out compensation of ₹4,50,000/-. Thereafter, by awarding a sum of ₹50,000/- under conventional heads towards loss of love and affection, last rites etc. in terms of the decision of Hon'ble the Supreme Court in ***Kerala***

S.R.T.C. Vs. Susamma Thomas 1994 SCC (2) 176 awarded a total

compensation of ₹ 5,00,000/- along with interest at the rate 9% per annum.

8. Learned counsel for respondent No.3-Insurance Company states that although he is not averse to the assessment of notional income of the deceased 13 years old Anju at ₹30,000/- per annum yet a sum of ₹50,000/- awarded on account of conventional heads towards loss of love and affection, funeral expenses and last rites etc. is liable to be scaled down to ₹15,000/- on account of loss of estate and funeral expenses respectively. Thus, a total sum of ₹4,80,000/- is liable to be awarded.

9. Having heard learned counsel for the parties and considered their submissions, I am of the view that the appeal is liable to be allowed and amount awarded enhanced by treating the notional income of the deceased as ₹30,000/- per annum and multiplier of 15. Although there is no evidence of the deceased helping her parents, yet the accident is of the year 2004 while in **Kishan Gopal's case (supra)** the accident was of the year 1992 and the value of money has since gone down. Besides a sum of Rs.15,000/- each is liable to be awarded on account of funeral expenses and loss of estate respectively. Accordingly, total compensation payable works out to $₹30,000 \times 15 = ₹4,50,000/- + ₹30,000/-$ on account of funeral expenses and loss of estate) ₹4,80,000/-.

10. Accordingly, as against the compensation of ₹ 3,00,000/- the appellants-claimants are held entitled to award of

compensation of ₹4,80,000/- along with interest @ 9% per annum with effect from the date of filing of the claim petition till date of payment, less amount if any already paid.

11. Accordingly the award passed by Motor Accident Claims Tribunal, Narnaul is modified to the extent as noted above.

September 13, 2018
Poonam (II)

(B.S. WALIA)
JUDGE

Whether speaking/reasoned **Yes/No**

Whether Reportable **Yes/No**