

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-7664-2015 (O&M)

Date of decision: 17.05.2018

Raj Kumari

..... Appellant

Versus

Arvind Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. RS Mamli, Advocate for the appellant.

Mr. Ankur Gupta, Advocate
for respondent No. 3-Insurance company.

RAMENDRA JAIN, J. (ORAL)

1. Through this appeal appellant-claimant-mother of deceased-Shivam @ Pankaj Kumar, has sought enhancement of compensation, modifying the impugned Award dated 16.07.2015 of the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (for short-'the Tribunal').

2. In nutshell, on 08.02.2014, son of the claimant, namely; Shivam @ Pankaj Kumar, studying in 3rd standard died in a motor vehicular accident caused by respondent No. 1 while driving offending tractor trolley owned by respondent No. 2 and insured by respondent No. 3. The appellant filed a claim petition for award of compensation on account of death of her son in his tender age. The learned Tribunal after holding trial awarded a sum of ₹5,00,000/- to the appellant-claimant vide Award impugned herein.

3. Learned counsel for the appellant-claimant relying upon a judgment in **Kishan Gopal and another Vs. Lala and others, 2013(4)**

RCR (Civil) 276, contends that compensation of ₹5,00,000/- awarded in that case pertains to a child of around 10 years, died in the motor vehicular accident in the year 1992. Since, in the instant case, death of the son of appellant-claimant, aged around 13 years, had occurred in the year 2014, therefore, compensation is liable to be enhanced considering the gap of 22 years between the death of the son of the appellant-claimant in the instant case and death of child in the above referred case.

4. On the other hand, learned counsel for respondent-Insurance Company, relying upon judgment of this Court in ***Neelam Kumar @ Neelam Devi and another Vs. Balwant Singh and others, 2016(4) RCR (Civil) 116***, a co-ordinate Bench of this Court has awarded compensation of ₹5,00,000/- against the death of a child at the age of 15 years and student of 10th class, vehemently opposing the submissions of learned counsel for the appellant-claimant, pleaded the legality and validity of the impugned Award.

5. Having given considerable thought to the submissions made by learned counsel for both the parties, this Court finds the instant appeal completely devoid of any merit for the reasons to follow:

6. The facts and circumstances in the instant case are different to the facts of judgment in ***Kishan Gopal and another's case (supra)*** relied upon by learned counsel for the appellant-claimant. The contention of learned counsel for the appellant that enhancement is required in this case considering the gap of 22 years is bereft of any merit for the reason that life of a person in the year 2014 was equally precious/akin to a person who died in the year 1992. Due to gap in the death of two persons, different yardstick cannot be applied, more particularly, when notional income of a person has

to be taken to grant just compensation.

7. The judgment in **Kishan Gopal and another's case (supra)** relied upon by learned counsel for the appellant was delivered in the year 2013 taking the income of the deceased at ₹30,000/- per annum, considering the prevalent circumstances, inasmuch as, for a death occurred 24 years ago, so much notional income @ ₹ 30,000/- could not have been taken by any stretch of imagination. That apart, for grant of adequate compensation in a motor accidental case to the dependents of the deceased, various circumstances are considered as a guiding factor i.e. their dependency, income of the deceased at the time of his death, number of dependents and background etc. It has been held repeatedly that no compensation can be granted for sentiments.

8. In **Lata Wadhwa Vs. State of Bihar, 2001(8) SCC 197**, the Hon'ble Apex Court, for a student died in the year 1989, in between the age group of 10 to 15 years had considered his notional income at ₹1000/- per month. Applying multiplier of 11 to the same and adding ₹ 25,000/- under conventional heads, awarded a sum of ₹ 1,57,000/- to the parents of the deceased. When the notional income of a student in the year 1989 was taken at ₹1000/- per month, in that eventuality, for a death in the year 1992, the same could not have been taken by approximation more than at ₹2000/-. Looking into this aspect of the case, it is evident on record that the Hon'ble Apex Court in **Kishan Gopal and another's case (supra)**, took notional income of the deceased prevalent in the year 2013, the year in which this judgment was delivered, yet in the instant case, the accident took place in the year 2014.

9. In view of the discussion made above, this Court is of the

considered opinion that adequate compensation to the tune of ₹ 5,00,000/- has already been awarded by the learned Tribunal, vide award impugned herein. Therefore, no enhancement is warranted in the instant appeal. Accordingly, the same is dismissed.

May 17, 2018
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No