IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.3416 of 2003
Date of Decision: 20.03.2019.

Murati Devi and another

...Appellants

Versus

Kuldip and others

....Respondents

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

Present: Mr. Parduman Yadav, Advocate for the appellants.

Mr. Neeraj Khanna, Advocate for respondent No.3.

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<u>B.S.WALIA, J (Oral)</u>.

1. Appeal has been filed by the parents of Dinesh Kumar, who died in a motor vehicular accident on 29.08.1999, seeking enhancement of compensation of ₹1,55,000/-, awarded by the learned Motor Accidents Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal').

2. Learned counsel contends that the appeal is liable to be allowed, award modified and compensation payable enhanced by taking into account the notional income of the deceased as ₹50,000/- per annum, by awarding ₹15,000/- on account of funeral expenses, ₹15,000/- on account of loss of estate besides interest @ 7.5% per annum.

3. Per contra, learned counsel for respondent No.3/Insurance Company contends that notional income of the deceased could not be taken

more than ₹15,000/- per annum in terms of the Second Schedule to Motor Vehicles Act, 1988. Learned counsel, however, did not dispute the claim for award of ₹15,000/- on account of funeral expenses and ₹15,000/- on account of loss of estate.

4. Learned counsel for the appellants has relied on the decision of Hon'ble the Supreme Court in Kishan Gopal and another vs. Lala and others 2014 (1) SCC 244, to contend that the notional income of the deceased was liable to be assessed @ ₹30,000/- per annum, however, the same has been distinguished by learned counsel for respondent No.3/Insurance Company by contending that in Kishan Gopal's case (supra), basis for taking into account the notional income of the deceased therein at ₹30,000/- per annum was the fact that the deceased therein was helping his parents in agricultural occupation while studying, whereas in the instant case, it had categorically been stated by the father of the deceased that apart from being a student and a good footballer besides participating in extracurricular activities, the deceased was not doing anything else. Learned counsel for respondent No.3/Insurance Company contends that in the circumstances, the facts of the instant case are distinguishable from the facts in Kishan Gopal's case (supra), therefore, at best the notional income of the deceased can be taken at ₹15,000/- per annum.

5. I have considered the submissions of learned counsel for the parties.

6. Admittedly the deceased was not helping his parents. Thus, reliance by learned counsel for the appellants on the decision in Kishan Gopal's case (supra) is not justified. Accordingly, the notional income of the deceased can at best be taken at ₹15,000/- per annum as per the Second Schedule to the Motor Vehicles Act, 1988.

7. Since the claim petition was under Section 166 of the Motor Vehicles Act, 1988, therefore, as per paragraph No.61 (viii) of the decision of Hon'ble the Supreme Court in National Insurance Company Ltd. versus Pranay Sethi and others, 2017 (4) RCR (Civil) 1009, the appellants are held entitled to ₹15,000/- on account of funeral expenses and like amount on account of loss of estate.

8. As regards claim for award of higher interest, it needs noticing that the accident in this case took place in the year 1999, therefore, it would be in the fitness of things, if the appellants are held entitled to award of interest @ 7.5% per annum. Ordered accordingly.

9. Deduction @ 1/3rd of the notional income of the deceased towards his personal expenses ordered by the learned Tribunal is not sustainable and is accordingly set aside. However, multiplier of '15' applied by the Tribunal does not warrant any interference.

10. In the circumstances, the appellants are held entitled to the following compensation:-

Sr. No.	**Head**	**Amount assessed by the Tribunal**	**Amount assessed by this Court**
1	Notional Income	₹15,000/- p.a.	₹15,000/- p.a.
2	Future Prospects	Nil	Nil

Sr. No.	**Head**	**Amount assessed by the Tribunal**	**Amount assessed by this Court**
3.	Deduction	1/3rd of ₹15,000/- i.e. ₹5000/-	Nil.
4.	Total Notional Income	₹10,000/-	₹15,000/-
5.	Multiplier applied	15	15
6.	Dependency	₹10000x15=₹1,50,000/-	₹15000x15=₹2,25,000/-
7.	Funeral Expenses	₹5,000/-	₹15,000/-
8.	Loss of Estate	Nil.	₹15,000/-
9.	Interest	6% per annum	7.5% per annum
	Total	₹1,55,000/-/-	₹2,55,000/-

11. Accordingly, as against the compensation of ₹1,55,000/- awarded by the learned Tribunal, the appellants are held entitled to award of compensation of ₹2,55,000/- along with interest @ 7.5% per annum w.e.f. the date of filing of the claim petition till date of payment, less amount if any already paid.

12. Accordingly, appeal is allowed and award dated 11.04.2003, passed by the learned Tribunal, Rewari, is modified to the extent as noted above.

(B.S.WALIA)
JUDGE

20.03.2019.
rajesh.k.khurana

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No