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

FAO No.3852 of 2003
Date of Decision: 20.03.2019.

Lali 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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**B.S.WALIA, J (Oral).**

1. Appeal has been filed by the parents of Rakesh 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') along with interest @ 6% per annum.

2. Learned counsel for the appellants 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 by awarding interest @ 7.5% per annum.

3. Per contra, learned counsel for respondent No.3/Insurance Company contends that no doubt the deceased was helping his parents in agricultural occupation, but the notional income of the deceased could not be taken more than ₹15,000/- per annum as per the II[nd] Schedule to Section 163-A of Motor Vehicles Act, 1988. He, 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. I have considered the submissions of learned counsel for the parties.

5. Admittedly, the deceased was 16 years of age and was a student of the 10th class. In addition to being a brilliant student, the deceased apart from participating in extracurricular activities and games used to assist his parents in agricultural occupation. In **Kishan Gopal and another vs. Lala and others case-2014 (1) SCC 244** involving an accident which took place on 19.07.1992, Hon'ble the Supreme Court while taking into account the provisions of the Second Schedule to Section 163-A of the Motor Vehicles Act, 1988 as also its decision in **Lata Wadhwa vs. State of Bihar and others 2001 (8) SCC 197** besides of the deceased aged 10 years assisting the appellants in agricultural occupation as also that notional income of a non-earning member prior to the date of accident had been fixed at ₹15,000/- per annum and value of the rupee having come down drastically, took the notional income of the deceased at ₹30,000/- per annum. In the circumstances, especially of the deceased being 16 years of age, a brilliant student of 10th class who apart from participating in extracurricular activities used to assist his parents in agricultural occupation, it would be just and reasonable to take the notional income of the deceased at ₹30,000/- per annum as was done in the case of Kishan Gopal (supra).

6. The appellants, in terms of 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**, are held entitled to ₹15,000/- on account of funeral expenses and like amount on account of loss of estate.

7. As regards award of interest, it needs noticing here 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.

8. Deduction @ 1/3rd of the notional income of the deceased towards his personal expenses ordered by the learned Tribunal is not sustainable and the same is accordingly set aside as no deduction is to be made in case of notional income. However, multiplier of '15' applied by the Tribunal does not warrant any interference.

9. 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. | ₹30,000/- p.a. |
| 2 | Future Prospects | Nil | Nil |
| 3. | Deduction | 1/3rd of ₹15,000/- i.e. ₹5000/- | Nil. |
| 4. | Total Notional Income | ₹10,000/- | ₹30,000/- |
| 5. | Multiplier applied | 15 | 15 |
| 6. | Dependency | ₹10,000x15=₹1,50,000/- | ₹30,000x15=₹4,50,000/- |
| 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/-/- | ₹4,80,000/- |

10. Accordingly, as against the compensation of ₹1,55,000/- along with interest @ 6 % per annum awarded by the learned Tribunal, the appellants are held entitled to compensation of ₹4,80,000/- 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.

11. 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