IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.6766 of 2015 (O&M)
Date of Decision: 26.03.2019.

Ayyub and another. ...Appellants

Versus

Subedeen and others. ....Respondents

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

Present: Mr. Barjinder Singh, Advocate for Mr. Ashish Gupta, Advocate for the appellants.

None for respondent No.1.

Mr. Manish Saini, Advocate for
Mr. R.K. Saini, Advocate for respondent No.2.

Mr. D.K. Prajapati, Advocate for respondent No.3.

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B.S.WALIA, J (Oral).

CM No.21172-CII of 2015

Allowed as prayed for.

FAO No.6766 of 2015

1. Appeal has been filed by the parents of Sahanawaj, who died in a motor vehicular accident on 02.08.2014, seeking enhancement of compensation of ₹2,85,000/-, awarded by the learned Motor Accidents Claims Tribunal, Mewat (hereinafter referred to as 'the Tribunal').

2. Learned counsel for the appellants contended that the appeal was liable to be allowed, award modified and compensation payable

enhanced in the light of the decision of Hon'ble the Supreme Court in Kishan Gopal and another vs. Lala and others 2014 (1) SCC 244, by awarding compensation of ₹4,85,000/-, as apart from being a student of Class 8, the deceased used to help his father in his electrical works after school hours.

3. On the other hand, learned counsel for respondent Nos.2 and 3 contended that the compensation awarded by the learned Tribunal was just and proper and did not warrant interference.

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

5. The learned Tribunal by taking into account the notional income of the deceased as ₹15,000/- per annum, by applying multiplier of '15' besides by awarding ₹50,000/- on account of loss of love and affection and ₹10,000/- on account of last rites, awarded total compensation of ₹2,85,000/-.

6. Admittedly the deceased was 14 years of age and was a student of the 8th class, besides was helping his father in his electrical shop after school hours. Hon'ble the Supreme Court in Kishan Gopal's case (supra) took into account that the rupee value had come down drastically from the year 1994 and accordingly assessed the annual notional income of the deceased @ ₹30,000/- and while relying upon its decision in Municipal Council of Delhi vs. Association of Victims of Uphaar Tragedy 2012 (3) RCR (Civil) 203, awarded interest @ 9% per annum. Relevant extract of the decision in Kishan Gopal's case (supra) is reproduced as under:-

In our considered view, the aforesaid legal principle laid down in Lata Wadhwa's case with all fours is applicable to the facts and circumstances of the case in hand having regard to the fact that the deceased was 10 years' old, who was assisting the appellants in their agricultural occupation which is an undisputed fact. We have also considered the fact that the rupee value has come down drastically from the year 1994, when the notional income of the non- earning member prior to the date of accident was fixed at ₹15,000/-. Further, the deceased boy, had he been alive would have certainly contributed substantially to the family of the appellants by working hard. In view of the aforesaid reasons, it would be just and reasonable for us to take his notional income at ₹30,000/- and further taking the young age of the parents, namely the mother who was about 36 years old, at the time of accident, by applying the legal principles laid down in the case of Sarla Verma v. Delhi Transport Corporation[3], the multiplier of 15 can be applied to the multiplicand. Thus, 30,000 x 15 = 4,50,000 and 50,000/- under conventional heads towards loss of love and affection, funeral expenses, last rites as held in Kerala SRTC v. Susamma Thomas[4], which is referred to in Lata Wadhwa's case and the said amount under the conventional heads is awarded even in relation to the death of children between 10 to 15 years old. In this case also we award ₹50,000/- under conventional heads. In our view, for the aforesaid reasons the said amount would be fair, just and reasonable compensation to be awarded in favour of the appellants. The said amount will carry interest at the rate of 9% p.a. by applying the law laid down in the case of Municipal Council of Delhi v. Association of Victims of Uphaar Tragedy[5], for the reason that the Insurance Company has been contesting the claim of the appellants from 1992-2013 without settling their legitimate claim for nearly about 21 years, if the Insurance Company had awarded and paid just and reasonable compensation to the appellants the same could have been either invested or kept in the fixed deposit, then the amount could have earned five times more than what is awarded today in this appeal. Therefore, awarding 9% interest on the compensation awarded in favour of the appellants is legally justified.

7. Besides, learned counsel for respondent Nos.2 and 3 has candidly admitted that no question was put to the father of the deceased with regard to the deceased not helping him in his electrical shop. Accordingly, 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's case (supra).

8. 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 also held entitled

to ₹15,000/- on account of funeral expenses and like amount on account of loss of estate.

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	Nil.	Nil.
4.	Total Notional Income	₹15,000/-	₹30,000/-
5.	Multiplier applied	15	15
6.	Dependency	₹15000x15=₹2,25,000/-	₹30000x15=₹4,50,000/-
7.	Funeral Expenses	₹10,000/-	₹15,000/-
8.	Loss of Estate	Nil.	₹15,000/-
9.	Love and affection	₹50,000/-	Nil.
10.	Interest	7.5% per annum	9% per annum
	Total	₹2,85,000/-/-	₹4,80,000/-

10. Accordingly, as against the compensation of ₹2,85,000/- awarded by the learned Tribunal, the appellants are held entitled to award of compensation of ₹4,80,000/- along with interest @ 9% 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 11.03.2015, passed by the learned Tribunal, Mewat, is modified to the extent as noted above.

(B.S.WALIA)
JUDGE

26.03.2019.
rajesh.k.khurana

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