IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO-3542-2013 (O&M)
Reserved on: 19.09.2022
Pronounced on: 23.09.2022

Kamalpreet Kaur and another …Appellants

Versus

Baldev Singh and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ashok Jindal, Advocate, for the appellants.

Mr. Tarun Sharma, Advocate for
Mr. R.S. Bajaj, Advocate
for respondents No.1 and 2.

Mr. Mayank Gupta, Advocate for
Mr. Vinod Gupta, Advocate
for respondent No.3.

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HARKESH MANUJA, J.

1. The claimants are in appeal, impugning the award dated 26.03.2013 passed by learned Motor Accident Claims Tribunal, Bathinda,(hereinafter to be referred as 'the Tribunal') praying for enhancement of compensation.

2. Present is an unfortunate case wherein the appellants lost their minor son namely Rupinder Singh, aged 14 years in a road accident which took place on 21.12.2011. On the fateful day, the deceased Rupinder Singh was travelling as a pillion rider on a scooter bearing registration No. PB-10AE-3832, being driven by one Ramesh Singh. The scooter was hit by the offending vehicle i.e. Bolero Jeep bearing

registration No.PB-03-Y-8237 being driven by respondent No.1 in a rash and negligent manner. The appellants/claimants (parents) filed claim petition before the learned Tribunal seeking compensation. Though, the claim petition was filed under Section 163-A of the Motor Vehicles Act, 1988, (for short 'the Act'), however, vide award dated 26.03.2013, the learned Tribunal recorded a positive finding in favour of the claimants and against respondent No.1 on the issue of rash and negligent driving of the offending vehicle. The learned Tribunal awarded a sum of Rs.2,30,000/- as compensation along with interest at the rate of 7% per annum including a sum of Rs.5000/- towards funeral expenses. The compensation was assessed by taking notional income of the deceased to be Rs.15,000/- per annum by applying the multiplier of 15.

3. Feeling aggrieved, the appellants/claimants filed the present appeal seeking enhancement of compensation. It has been vehemently contended on behalf of learned counsel for the appellants that the deceased was a student of 9th Class and considering the fact that he was getting education and could have served/helped his parents in future, adequate compensation should have been awarded in theirfavour. He further submits that the learned Tribunal has committed an error while assessing the notional income of deceased/child in this case to be Rs.15,000/- per annum.

4. On the other hand, learned counsel for the respondent No.3-Insurance Company submits that in the facts of the present case, the appellants have already been awarded just compensation.

5. Having heard learned counsel for the parties and on perusal of the case file, I find that the learned Tribunal has committed an error

while assessing the notional income of the deceased @ Rs.15,000/- per annum.

6. The Hon'ble Supreme Court in ***'Krishan Gopal and another vs. Lala and others', 2013 (4) RCR (Civil) 276*** while dealing with a case relating to road accident in the year 1992, was pleased to hold that in case of death of a child, aged 10 years, notional income of Rs.30,000/- shall be taken while determining the compensation.

7. In the present case, accident took place on 21.12.2011 i.e. more than 19 years after the accident, which was the subject matter of **KishanGopal's** case (supra). Under similar circumstances, considering the time gap in the date of accident as well as the drastic devaluation of Rupee, this Court in case titled as ***"Sunita Devi and another vs. Vijay Pal and others", 2018(2) Law Herald 1659***, wherein the accident took place in the year 2012, on consideration of principles laid down in the case of **Kishan Gopal's** case (supra), has been pleased to hold that the notional income should be taken @ Rs.50,000/- instead of Rs.30,000/- per annum in case of death of a child aged 15 years. The ratio laid down in **Sunita Devi's** case (supra) is fully applicable to the facts and circumstances of the present case as the accident in this case took place in the year 2011 and the deceased child happened to be 14 years of age. Relevant extract from para 8 of **Sunita Devi's** case (supra) is reproduced hereunder for reference:

> *"8. Reference can also be made to a latest judgment of this Court in the case of* ***Beet Nath and another v. Gulab Singh and others*** *(FAO No.159- 2015) decided on July 10, 2017, wherein the notional income of the child who died in an accident which took place in the*

> *year 2012 was taken as Rs.50,000/-. It was observed in that case that in the case of **Kishan Gopal and another v. Lala and others, 2013(4) RCR (Civil) 276**, wherein the notional income of a 10 years old child was taken as Rs.30,000/-, the year of the accident was 1992. But in that case, the accident had taken place in the year 2012 and the age of the deceased at the time of the accident was 15 years. Since, the value of rupee has come down drastically since the year 1992, the notional income in **Beet Nath's** case (supra) was taken as Rs.50,000/-."*

Although, in case of **Sunita Devi's** (supra), this Court has held that the notional income can be taken @ Rs.50,000/- per annum, however, as the claim petition in the present case was filed under Section 163-A of the Act which quantifies the maximum annual income to be Rs.40,000/-, thus, I deem it appropriate to assess the notional income, in the facts and circumstances of the present case, to be Rs.40,000/- per annum.

8. As regards the grant of benefit of compensation under conventional heads, it may be pointed out here that in the case of **Krishan Gopal's** (supra), the claimant was awarded a sum of Rs.50,000/- in lumpsum, pertaining to an accident which took place in the year 1992. However, considering the depreciating value of the currency as well as the law laid down by Hon'ble Supreme Court in **"*National Insurance Company Limited Vs. Pranay Sethi and others***; 2017 (4) RCR (Civil) 1009, the claimants are held entitled for a sum of Rs.15000/- on account of funeral expenses, besides anther sum of Rs.15,000/- on account of loss of estate, in addition to a sum of Rs.80,000/- (Rs.40000

each for both the claimants as filinial consortium).

9. In view of the discussion made hereinabove, the appellants are entitled for following enhanced compensation, as detailed in the table given hereunder:-

Sr. No.	**Heads**	**Amount**
1.	Notional income = Rs.40,000 x 15	Rs.6,00,000/-
2.	Funeral Expenses	Rs.15,000/-
3.	Loss of Estate	Rs.15,000/-
4.	Filinial consortium (Rs.40,000/- x 2 = Rs.80,000/-)	Rs.80,000/-
	Total Compensation	**Rs.7,10,000/-**
	Compensation awarded by the Tribunal	**Rs.2,30,000/-**
	Enhanced compensation	**Rs.4,80,000/-**

10. The enhanced amount of compensation shall carry interest @ 9% from the date of filing of claim petition till its realization. Accordingly, the award stands modified to the above extent and present appeal is, therefore, partly allowed. It is made clear that in case, respondent No.3-Insurance Company fails to pay the enhanced compensation along with interest @ 9% within a period of two months from today, the appellants-claimants shall be entitled to interest @ 15% per annum.

11. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARKESH MANUJA)
JUDGE

Pronounced on 23.09.2022
sanjay

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