

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

223

FAO-1528-1993

Date of decision : 15.12.2023

Kanhiya Lal and another

.....Claimant-Appellants

Versus

M/s Khalsa Fabrics, Rajpura and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: None for the appellants.

Mr. Deepak Suri, Advocate, for respondent No.3-Insurance
Company.

AMAN CHAUDHARY, J.

1. The present appeal has been filed by the claimant-appellants for enhancement of the compensation amount awarded by the learned Motor Accident Claims Tribunal, Chandigarh (for short 'the Tribunal') vide award dated 05.01.1993, on account of death of Daulat Ram in a motor vehicular accident.

2. This is a reconstructed case, as the original file was burnt in the fire that broke out in the concerned branch in the year 2011. Since the case is pending for the last more than 30 years, learned counsel for the Insurance Company has no objection, in case the same is decided on basis of the available record.

3. It has been stated in the grounds of appeal that the deceased was a 13 year old student of Class 7th. An irreparable loss has been caused to the claimant-appellants, his parents. The Tribunal has awarded a meager amount of Rs.25,000/-. Nothing has been awarded on account of love and affection, mental agony etc.

4. On the other hand, learned counsel for the insurance company submits that the Tribunal has rightly assessed the compensation in light of the evidence led by the claimant-appellants, thus, prays for the dismissal of the present appeal.

5. Heard and perused.

6. There is no dispute with regard to the death of the deceased-Daulat Ram, which occurred in a motor vehicular accident. Insofar as the accident, the manner of its having taken place, as well as the liability fastened upon the driver, owner and insurer of the offending vehicle, to be joint and several are concerned, pertinently, no challenge to the same has been made and thus, this issue does not warrant any further scrutiny.

7. To proceed further a worthwhile reference can be made to the judgment in **Lata Wadhwa and others vs. State of Bihar and others**, (2001) 8 SCC 197, wherein Hon'ble the Supreme with regard to awarding of compensation in case of death of a child in the age groups of 5 to 10 and 10 to 15 years held that such grant of compensation will not necessarily bar the parents to claim prospective loss and it will be valid. Further, in **M.S. Grewal & another vs. Deep Chand Sood & others**, (2001)8 SCC 151, an amount of Rs.5,00,000/- was awarded noticing that the death of 14 students

occurred due to drowning belonged to upper middle class and in **Kishan Gopal and another vs. Lala and others**, (2014) 1 SCC 244, a case relating to the death of a child aged 10 years in a road accident on 19.07.1992, a departure was made from Schedule II of MV Act and the notional income of Rs.30,000/- was accepted applying the analogy that value of rupee has come down drastically since the year 1994, when the above income was fixed notionally as Rs.15000/-. As per the age of parents i.e. 36 years, the loss of dependency was calculated applying the multiplier of 15 accepting the notional income as Rs.30,000/- and accordingly, an amount of Rs.4,50,000/- was assessed and in addition thereto a sum of Rs.50,000/- was awarded under conventional heads.

8. Reverting to the case at hand, admittedly, the deceased was a 13 year old child, whose death occurred in a road accident. The claimants are his unfortunate parents. This Court, keeping the law laid down referred to hereinabove and the facts and circumstances of the case in mind, is of the considered opinion that ends of justice would be adequately met by enhancing the compensation as awarded by the Tribunal to the claimant-appellants. They are accordingly held entitled to Rs. 5,00,000/- (Rs.30000 (income) x 15 + 50,000 (conventional heads). Thus, the enhanced compensation of Rs.4,75,000/- alongwith interest at the rate of 7.5% per annum from the date of filing of the present appeal, till its realization, shall be paid to the claimant-appellants, within a period of 2 months from the date of receipt of a certified copy of this judgment, failing which, the amount shall accrue an interest as awarded by the Tribunal.

9. Modifying the award to the aforesaid extent, the present appeal

is disposed of.

10. Registry is directed to send a copy of the order to the concerned Tribunal for execution of the same. After the needful is done, a compliance report be submitted.

15.12.2023
Ankur

(AMAN CHAUDHARY)
JUDGE

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