

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

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FAO-457-1995

Date of decision : 08.12.2023

Om Parkash and another

.....Claimant-Appellants

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: None for the appellants.

Mr. Jagdish Manchanda, Addl. A.G., Haryana.

Ms. Shamsheer Kaur, Advocate
for respondent No.4-Oriental Insurance Company Ltd.**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, Hoshiarpur (for short 'the Tribunal') vide award dated 18.10.1994, on account of death of Nitin 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 28 years, the learned State counsel and learned counsel for the Insurance Company have 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 9 years old at the time of accident. An irreparable loss has been caused to the parents-appellants. 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 State counsel and learned counsel for respondent No.4 submit that the Tribunal has rightly assessed the compensation in light of the evidence led by the claimant-appellants, thus, pray for the dismissal of the present appeal.

5. Heard and perused.

6. There is no dispute with regard to the death of the deceased-Nitin, which occurred in a motor vehicular accident. In so far as the accident, the manner of its having taken place, as well as the liability fastened upon the respondent No.4-Insurance Company are concerned, it is pertinent to notice that no challenge to the Award has been made and thus, this issue does not warrant any further scrutiny.

7. A judgment in **Lata Wadhwa and others vs. State of Bihar and others**, (2001) 8 SCC 197, can be profitably referred to, 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, regarding 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 9 year old child, whose death occurred in a road accident. The claimants are his parents. This Court, keeping the law laid down referred to hereinabove in mind and the facts and circumstances of the case, is of the considered opinion that ends of justice would be adequately met by enhancing the compensation awarded by the Tribunal to the claimant-appellants. They are held entitled to Rs. 5,00,000/- (Rs.30000 (income) x 15 + 50,000 (conventional heads) as compensation. Thus, the enhanced compensation of Rs.4,72,000/- 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.

08.12.2023

Hemant

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No