

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
123
FAO-5015-2018 (O&M)
Date of decision: 08.05.2023

Pooja Kaur & Others

...Appellant(s)

Vs.

Resham Singh & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Rajesh Malik, Advocate
for the appellants.

NIDHI GUPTA, J.

CM-8124-CII-2023

This is an application under Order 41 Rule 19 read with
Section 151 CPC for restoration of present appeal i.e. FAO-5015-2018.

After going through the contents of the application, the
same is allowed subject to all just exceptions.

CM-16557-CII-2018

This is an application under Section 5 of the Limitation
Act, 1963 seeking condonation of delay of 130 days in filing the appeal.

After going through the contents of the application, the
same is allowed subject to all just exceptions.

MAIN APPEAL

Present appeal has been filed by the claimants seeking
enhancement of compensation of Rs.5,55,000/- granted by Motor
Accident Claims Tribunal, Sangrur (hereinafter referred to as "the
learned Tribunal") vide Award dated 13.10.2017 passed in Motor

Accident Claims Case No.46 of 08.03.2017 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as “the Act”). The three claimants are the parents and sister of 8-year-old deceased-Bhoomika Ghuman.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that deceased-Bhoomika Ghuman had died due to injuries suffered by her in a motor vehicular accident that took place on 14.02.2017 due to rash and negligent driving of school bus bearing registration No.PB-13V-1627 (hereinafter referred to as “the offending vehicle”) being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3. Learned Tribunal awarded compensation as above along with interest @ 7% per annum from the date of claim petition till realisation of the amount. Respondents were held jointly and severally liable to pay the amount of compensation.

3. Learned counsel for the appellants seeks enhancement of compensation on the ground that notional income of the deceased has been taken on lower side as only Rs.30,000/- per month and the same deserves to be enhanced. It is further submitted that amount of Rs.25,000/- granted for transportation and funeral expenses is also on lower side, and even lumpsum amount of Rs.50,000/- granted to all the claimants for loss of love and affection deserves to be enhanced.

4. No other argument is raised on behalf of the appellants.

5. I have heard learned counsel for the appellants.

6. I find no merit in the submissions made on behalf of the appellants. As per judgment of the Hon'ble Supreme Court in **Kishan Gopal & Another Vs. Lala & Others Law Finder Doc ID # 477190**, in similar case as the present one where the deceased was a young child and not earning, compensation of Rs.5,00,000/- was awarded to the claimants. In the said case also Hon'ble Supreme Court had taken notional income of the 10-year-old deceased therein as Rs.30,000/-, and had applied multiplier of 15, thus, taking compensation amount to Rs.4,50,000/-. Hon'ble Supreme Court had thereafter granted Rs.50,000/- towards loss of love and affection. In the present case, learned Tribunal has taken notional income of the child as Rs.30,000/- and has applied multiplier of 16. Thus, taking amount of compensation to be Rs.4,80,000/-. Learned Tribunal has further granted Rs.50,000/- for loss of love & affection and Rs.25,000/- for transportation & funeral expenses. Thus, taking total compensation to Rs.5,55,000/-. No judgment to the contrary has been cited by learned counsel for the appellants.

7. I find no case is made out that merits interference with the impugned Award. I find the compensation awarded to the appellants to be just and fair in the facts and circumstances of the case. No doubt Chapter-12 of the Act is a beneficial legislation yet, as cautioned by the Hon'ble Supreme Court, the same cannot be allowed to be treated as a windfall or a source of profit. Moreover, compensation awarded upon

the death of a near and dear loved one cannot be made a market negotiation, where every penny has to be calculated and drawn. Hon'ble Supreme Court in **State of Haryana Vs. Jasbir Kaur, (1999) 1 SCC 90** and **Divisional Controller K.S.R.T.C. Vs. Mahadev Shetty, (2003) 7 SCC 197**, has held that the amount of compensation should be just and reasonable, it should neither be a bonanza nor a source of profit but at the same time it should not be a pittance. Thus, all that has to be determined in the facts of a given case is, that the compensation accorded is 'just'. In my considered view, in the present case, the learned Tribunal has awarded a very 'just' compensation, which is in accordance with the law laid down by the Hon'ble Supreme Court and therefore, does not warrant the interference of this Court. In case of **KSRTC Vs. Susamma Thomas 1994 Volume-II SCC 176**, the Hon'ble Supreme Court has held that misplaced sympathy, generosity and benevolence cannot be the guiding factor for determining the compensation.

8. In view of the above facts, I find no ground is made out to interfere in the impugned Award. Present appeal accordingly stands **dismissed**.

9. Pending application(s) if any also stand(s) disposed of.

08.05.2023
Sunena

(Nidhi Gupta)
Judge

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