

2024:PHHC:060005

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-4886-2009 (O&M)
Date of Decision: May 01, 2024

Shanti Devi @ Sham Kala

...Appellant

VERSUS

Rajasthan State Road Transport Corporation and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Chand Ram Olla, Advocate
for the appellant.

Mr.Amit Kaith, Advocate
for respondent No.1.

ARCHANA PURI, J.

The present appeal has been filed by the appellant-claimant, thereby questioning the adequacy of the compensation granted by Motor Accident Claims Tribunal, on account of death of Rekha, 9 year old child, in a motor vehicular accident, which took place on 15.01.2007.

So far as, the factum of accident and manner of taking place of the same as well as the liability fastened upon the respondents is concerned, none of the respondents, who have been made liable, have filed any appeal to question the role assigned to them.

In the given circumstances, proceeding further, at the very outset, it is pertinent to mention that the accident had taken place on 15.01.2007, as a result whereof, Rekha was run over by the bus. She was

taken to General Hospital, where she was declared 'brought dead'. The mother of deceased Rekha had filed the claim petition for seeking compensation to the extent of Rs.10 lakh.

Learned Tribunal had appropriately considered the deceased to be 9 year old, at the time of accident. Considering the same, lumpsum amount of Rs.1,50,000/- had been awarded by learned Tribunal. Besides the same, Rs.20,000/- had been awarded towards 'transportation and last rites'. In total, the compensation awarded was Rs.1,70,000/-. However, the compensation, so awarded, do call for re-determination, as per prevalent law.

It is pertinent to mention that Shanti Devi @ Sham Lal, in her affidavit Ex.PW2/A, had categorically stated that Rekha had been very brilliant student and she was studying in 3rd class, at the relevant time.

At the very outset, keeping in view the deceased to be brilliant child, beneficial reference is made to '***Kishan Gopal and another v/s Lala and others, 2013(4) RCR (Civil) 276***', wherein while considering the death of a child, aged 10 years, the notional income of the deceased was taken as Rs.30,000/- and after application of multiplier of '15' and the compensation was worked upon as Rs.4,50,000/-. Besides the same, a sum of Rs.50,000/- was granted towards love, affection, funeral expenses and last rites. The accident in the case under consideration, related to the year 1992.

Furthermore, the Hon'ble Supreme Court in case titled '***Kurvan Ansari alias Kurvan Ali and another v/s Shyam Kishore Murmu and another, 2022 (1) RCR (Civil) 165***', while considering the case of death of 7 years old child, in a motor vehicular accident and also while making specific

observation about the government not paying any heed to amend Schedule-II, had also placed reliance upon '**R.K.Malik and another vs. Kiran Pal and others, 2009(3) RCR (Civil) 403**' and **Kishan Gopal's case (supra)** and therein, concluded about the case (under consideration), to be a fit case to increase the notional income, while taking into account, inflation, devaluation of rupee and cost of living. Considering the same, the Hon'ble Court, took the notional income of the deceased child as Rs.25,000/- per annum and applied multiplier of '15' as prescribed in Schedule-II and worked upon the amount as Rs.3,75,000/-, towards the loss of dependency. Besides the same, Rs.40,000/- each was given to the claimants, who were two in number, towards filial consortium and Rs.15,000/- was given towards funeral expenses. The total compensation was worked upon as Rs.4,70,000/-.

Also, beneficial reference is made to '**Meena Devi v/s Nunu Chand Mahto @ Nemchand Mahto and others, 2022(4) RCR (Civil) 553**', wherein, while relying upon the observations made in **R.K. Malik's case (supra)** and **Krishan Gopal's case (supra)**, and also taking into consideration, the guidelines laid down in **Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77**, the Hon'ble Supreme Court, while considering the death of 12 year old, in a motor vehicular accident, took the notional earnings as Rs.30,000/- inclusive of future prospects and applied the multiplier of '15'. The loss of dependency was worked upon to be Rs.4,50,000/- and further addition of Rs.50,000/- was made, under conventional heads and thus, the total compensation was worked upon as Rs.5,00,000/-.

Adverting to the case in hand, more particularly, considering the deceased to be a brilliant student, studying in 3rd class, at the relevant time and also considering the devaluation of rupee, in the modest estimate, the notional earnings of the deceased child can conveniently be taken to be Rs.30,000/- per annum. The multiplier to be applied in the case, in hand, as per guidelines laid down in *Sarla Verma's case (supra)*, is '15' and so calculating, the loss of dependency comes to be Rs.4,50,000/-.

Besides the aforesaid, under the conventional heads, as per *National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009*, the compensation ought to be paid, on the count of 'loss of consortium', 'loss of estate' and 'funeral expenses'. As per *'Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130'*, whosoever are the dependents of the deceased/claimants, are entitled to 'parental', 'spousal' or 'filial' consortium, as required.

In view of the same, appellants-claimants are entitled to compensation, on the aforesaid counts. As per *Pranay Sethi's case (supra)*, the compensation payable, at present, on the count of 'loss of consortium' is to the extent of **Rs.48,400/-**, to each of the claimants and on the similar pattern, on the counts of 'loss of estate' and 'funeral expenses', the compensation payable, comes to be **Rs.18,150/-**, on each count.

Considering the same, the compensation payable to appellants-claimants on account of death of Rekha, is re-computed, as herein given:-

Loss of dependency	:	Rs.4,50,000/-
Loss of consortium	:	Rs.48,400/-
Loss of estate	:	Rs.18,150/-

Funeral expenses	:	Rs.18,150/-
Total	:	Rs.5,34,700/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.5,34,700-1,70,000=Rs.3,64,700/-**. On the differential amount of compensation i.e. Rs.3,64,700/-, the appellant-claimant shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the present appeal, till realization of the enhanced amount of compensation. The residue terms of the Award, shall remain the same.

In view of the aforesaid terms, the present appeal stands allowed.

May 01, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No