

(1986) 10 P&H CK 0059

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 394 of 1983

Smt. Urmila Joshi and Others

APPELLANT

Vs

Makhan Singh and Others

RESPONDENT

Date of Decision : 14-10-1986

Acts Referred:

Citation : (1986) 10 P&H CK 0059

Hon'ble Judges : S.S. Sodhi, J

Bench : Single Bench

Advocate : V.K. Jindal, for the Appellant; J.S. Narang, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Sodhi, J.—The matter here concerns the quantum of compensation payable to the parents in respect of the death of their thirteen years old son, Sachin Joshi, who was killed in a motor accident on November 8, 1981. This happened in Sirsa. The accident was caused when the truck RSK-9253 came from behind and hit into the cycle of the deceased. It was the finding of Tribunal that the accident had been caused entirely due to the rash and negligent driving of the truck-driver. A sum of Rs. 7,000/- was awarded as compensation to the claimants, who besides the parents also included the brothers of the deceased.

2. It is well-settled that parents do indeed have a legitimate expectation of financial support from their children particularly in their old age when their children are grown up and gainfully employed and thus entitled to compensation for the loss caused to them on this account. What the Supreme Court observed in C. K. Subraminia Iyer v. T. Kunhi Kutan Nair 1970 A.C.J 110 deserves to be recalled here, namely ; "as a general rule, parents are entitled to recover the present cash value of the prospective services of the deceased minor child. In addition they may receive compensation for loss of pecuniary benefits reasonably to be expected after the child attains majority."

3. In assessing the compensation to be awarded to the parents for the financial

loss suffered by them, on account of death of their minor child, regard must be had to what the parents were likely to have spent upon the maintenance and education of the child till such time as the child came to be gainfully employed. What the child is likely to have done or become in later life, would depend largely upon the financial status and social standing of the parents. The type of education that the parents were capable of providing to the child, would be another relevant consideration besides, the career that the child, in his circumstances, could be expected to take up. In this regard, it would be pertinent to take note of the achievements and aptitude of the child, as may have been revealed in school or otherwise. In other words, what the parents, as claimants, need to establish is the reasonable probability of pecuniary loss on account of the death of their child and this, in turn, must be based upon materials and circumstances which are real and not mere wishful thinking or fanciful. Each case has thus to be seen in the context of its own set of circumstances.

4. Turning now to the present case, it deserves note that the father of the deceased was a professor in a Government College. Provision of good education to the child, therefore, admits of no doubt. Indeed, it has come in the testimony of the mother, P.W.3 Urmila Joshi that their son Sachin Joshi was studying in the 8th standard of the Government Higher Secondary School, Sirsa, and was a brilliant student. It has also come in evidence that he also used to coach his younger brothers in their studies. There was thus a very real prospect of the child being well placed in life and thus in a position to support his parents in later life.

5. Considered, therefore, in the context of the situation and standing of the parents of the deceased and the position that Sachin Joshi could have looked for in the years to come, bearing in mind also what the parents would have spent upon him during his years of growing up, there can be no manner of doubt that the amount awarded was wholly inadequate and unreasonable. The loss to the parents, in this case, deserves to be assessed at Rs. 30,000/-.

6. The compensation payable to the claimants is accordingly hereby enhanced to thirty thousand rupees which they shall be entitled to along with interest at rate of twelve per cent per annum from the date of the application to the date of the payment of the amount awarded. The Respondents shall be jointly and severally liable for the compensation awarded.

7. As mentioned earlier, the claimants in this case, besides the parents, included the brothers of the deceased too. No compensation should have been awarded to them keeping in view of the judgment of the Full Bench in Parkash Chand v. Pal Singh (1985) 87 P.L.R. 538 (F.B.). In the absence of any appeal having been filed against the award of compensation to the brothers, no interference in respect of the amount awarded to them would be warranted in appeal here. It deserves to be clarified, however, that the entire enhanced amount of compensation shall be payable to the parents of the deceased while the amount awarded by the Tribunal namely seven thousand rupees shall be payable to the parents and the

brothers of the deceased in equal shares.

8. This appeal is consequently accepted with costs. Counsel fee Rs. 500/-.