

The State Vs. Banwari Lal

The State Vs. Banwari Lal

SooperKanoon Citation : sooperkanoon.com/760753

Court : Rajasthan

Decided On : Sep-15-1995

Reported in : 1996CriLJ1078; 1996WLC(Raj)UC438; 1995(2)WLN609

Judge : V.S. Kokje and; P.C. Jain, JJ.

Acts : Code of Criminal Procedure (CrPC) - Sections 313, 357(1), 366 and 368;
[Indian Penal Code \(IPC\), 1860](#) - Sections 302

Appeal No. : Criminal Murder Reference No. 2 of 1995 and Cri. (Jail) Appeal No. 275 of 1995

Appellant : The State

Respondent : Banwari Lal

Advocate for Def. : M.L. Khatri, Adv. for; Mridul Jain, Adv.

Advocate for Pet/Ap. : Doongar Singh, Adv.; for Banwarilal, Adv. and; V.R. Meht

Judgement :

V.S. Kokje, J.

1. The Additional Sessions Judge No. 2, Shri Ganganagar has initiated a reference under Section 366(i) of the Code of Criminal Procedure for confirmation of death sentence imposed by him on accused Banwari Lal son of Nathu Ram of

Suratgarh, District - Shri Ganganagar, having found him guilty of an offence under Section 302 of the Indian Penal Code for having caused the death of two of his younger brothers Baboo Lal and Harish Chandra by inflicting gunshot injuries on them. Accused Banwari Lal has also filed D. B. Criminal (Jail) Appeal No. 275/95 against his conviction under Section 302 I. P. C. and the death sentence imposed on him.

2. In view of proviso to Section 368 of the Code of Criminal Procedure, no order of confirmation of death sentence can be made until the appeal against conviction and sentence is disposed of. These two cases are therefore, heard together and are being decided by this common Judgment.

3. Chandra Kala (P. W. 2), widow of deceased Baboo Lal had lodged a First Information Report in Police Station - Suratgarh. The prosecution story, as emerges from her statement is that accused Banwari Lal and deceased Baboo Lal and Harish Chandra were brothers. Accused Banwari Lal used to reside separately from them on the upper storey of the same house whereas deceased Baboo Lal and Harish Chandra used to live jointly. Deceased Baboo Lal and Harish Chandra also used to live jointly till their agriculture land where accused Banwari Lal had a separate portion of the agriculture land. There was a tube-well in the agriculture land. All the three brothers had agreed to put up a Pump and the Motor on the tube-well jointly and agreed to share the expenses. Accordingly the equipment was purchased but accused Banwari Lal did not pay his agreed share even after a lapse of fifteen days. On August 17, 1991, when deceased Harish Chandra and Baboo Lal were irrigating their field in the evening, accused Banwari Lal declared that he would irrigate his field. Both the deceased brothers objected to his doing so on the ground that he had not paid his share in the amount spent on the equipment. Accused Banwari got enraged on this and fetched a double barrel gun from his house and started towards the field. Harish Chandra and Baboo Lal followed him. Seeing them following him, the accused declared that he will finish them that day and he fired one shot at Harish Chandra which hit him on the left side of the Chest. Deceased Baboo Lal tried to control the accused but the accused fired another shot at him which hit on the right side of the chest. Wives of Harish Chandra and Baboo Lal started crying and shouting. On this the accused

ran away from the spot. In the meanwhile Sanjay son of the accused came on the spot and looking to the delicacy of the situation, went to Hardutt Singh Numberdar on Motorcycle. Hardutt Singh came on the spot in a Jeep, put both the injured persons in the Jeep along with their wives and took them to Government Hospital, Suratgarh but both the injured persons succumbed to the injuries on the way to the Hospital. Accused Banwari surrendered along with his gun on August 20, 1991 and was taken in custody. After investigation, the accused person was tried and convicted and sentenced as aforesaid.

4. The learned Public Prosecutor supported the conviction and sentences and submitted that the death sentence deserves to be confirmed in the case as the accused person has committed a cold blooded murder of two of his younger brothers without any provocation and on a small dispute about payment of his share in the expenses for putting up a Motor-pump on the tube-well. According to the learned Public Prosecutor, the manner in which the murders of two of his younger brothers were committed by the accused makes it one of the rarest of the rare cases in which the death penalty deserves to be imposed.

5. Mr. Doongar Singh, learned counsel for the accused Banwari submitted that the prosecution has failed to bring out the whole truth before the Court and it has been suppressed that there was a quarrel and attempt to snatch the gun from the hands of the accused. According to him, the possibility of the two brothers being killed accidentally or the accused himself acting in self defence, cannot be ruled out. The learned counsel submitted that there were five injuries on the body of deceased Baboo Lal apart from gun shot wounds which were lacerations or abrasions caused by blunt weapon. According to the learned counsel these were caused by the butt of the gun or a blunt portion of the gun. It was also submitted that these injuries could be caused in struggle for snatching the gun. According to the learned counsel if that was so as, the gun was being snatched away, a reasonable apprehension would arise in the mind of the person holding the gun that after snatching the gun, it will be used against him and this would give him a right of private defence. According to the learned counsel these injuries also support the theory that gun might have got fired accidentally in the scuffle for snatching the gun. The learned counsel further submitted that Vimla and Sanjay, the wife and the son

of the accused were eye-witnesses to the incident but were given up by the prosecution. This resulted in presentation of the top sided picture before the Court and the prosecution did not put the whole storey by examining these two witnesses before the Court.

6. Learned counsel for the appellant cited the cases of Dominic Varkey v. The State of Kerala, : 1971 CriLJ1057 , Narendra Singh v. State, CR LR (Raj), 1987, 165, Basudev Singh v. Booma Singh, 1966 Cri App R (SC) 322, in support of his contention.

7. The learned Public Prosecutor relied on Laxman Naik v. State of Orissa, : 1995 CriLJ2692 , Solanki Chimanbhai Ukabhai v. State of Gujarat, : 1983 CriLJ822 and Mayur Panabhai Shah v. State, : 1982 CriLJ1972 .

8. The prosecution is mainly based on the testimony of the two widows viz. Pushpa (P. W. 1) and Chandra Kala (P. W. 2). Pushpa (P. W. 1) reiterated the prosecution story. She deposed that as the motor earlier fixed on the tube-well burnt-out, a new motor was brought for which Harish Chandra and Baboo Lal had paid money. They had asked the accused about this and he had said that they should bring the motor and he will give them money afterwards. Harish Chandra and Baboo Lal asked for the contribution towards the expenses from Banwari Lal several times but he kept on avoiding. On the fateful day at about 8.00 - 8.30 p.m. the fields of Harish Chandra and Baboo Lal were being irrigated and at that time Banwari said that he would irrigate his field. Harish Chandra and Baboo Lal told him to pay one-third of the expenses coming to his share and then get water for irrigating his field. On this Banwari Lal said that he will irrigate the field and challenged the two brothers by saying 'let anyone who wanted to stop him from doing so, try and stop him.' Banwari Lal went upstairs, brought the double barrel gun and went towards the tube-well. Harish Chandra and Baboo Lal followed him and this witness Pushpa wife of Harish Chandra and Chandra Kala wife of Baboo Lal followed them. She further deposed that within their view, Banwari Lal shot Harish Chandra and when Baboo Lal tried to intervene, Banwari shot him also. On receiving the gun shots, both of them fell down there. On the witness and Chandra Kala's raising an alarm, Vimla wife of Banwari and Sanjay son of accused came on

the spot. The witness added that they had seen the incident in the light emanating from an electric bulb fitted on the 'dhani'. Sanjay went on a Motorcycle to bring Hardutt Numberdar. Harish Chandra and Baboo Lal were put in the Jeep and they along with this witness and Chandra Kala, were taken to the Government Hospital. Harish Chandra and Baboo Lal, succumbed to the injuries on the way to the Hospital. The witness further stated that she went along with Chandra Kala to the Suratgarh Police Station and a report was lodged. The witness also proved certain memoranda which she had signed.

9. In her cross-examination, many questions were asked to her but what is relevant for our purpose is as follows. She stated that Banwari fired at Harish Chandra first, he fell down. Baboo Lal tried to intervene. Banwari hit him on head, ear and: mouth by barrel of the gun and wherever he hit with the barrel, lacerations appeared. She was then confronted with her case diary statements but she could not explain the omission in that statement about the injuries inflicted with the barrel of the gun. When confronted with her case diary statement, she could not also explain omission in the statement about herself and Chandra Kala following Harish Chandra and Baboo Lal who were following Banwari. A suggestion was given to her that when Banwari was going for irrigating his field, Baboo Lal and Harish Chandra chased him and said that he should be done away with by snatching the gun he was carrying and Harish Chandra and Baboo Lal caught the gun from the barrel side on which Banwari snatched the gun. Banwari got the gun free and hit Baboo Lal by the butt of the gun in self-defence. Harish Chandra and Baboo Lal still tried to snatch the gun and in this scuffle accidentally the gun got fired from both the barrels. One fire hit Baboo Lal and the other fire hit Harish Chandra. She denied the suggestion. She also denied the suggestion that she and Chandra Kala had not seen the occurrence and that Banwari had not fired intentionally at Harish Chandra and Baboo Lal. She has also denied the suggestion that when Harish Chandra and Baboo Lal fell down, Banwari gave them water to drink and sent his son Sanjay for making arrangements of conveyance to carry and injured persons to the Hospital. She also denied the suggestion that Banwari went to the Police Station for lodging First Information Report. She has also stated that Harish Chandra and Baboo Lal did not speak on way to the hospital. She was asked about the distance of the 'dhanis' of Vikram

Singh, Succha Singh, Sajna Ram and Buta Singh, she replied that she did not know the distance but admitted that 'dhanis' of these persons are there. She also deposed that Sanjay came with the Jeep about one or one and a half hours after the incident. She has also deposed that after the incident when she and Chandra Kala shouted, Bimla had come on the spot.

10. Chandra Kala (P. W. 2), the other eyewitness who has also lost her husband in the incident repeated the same story with a slight difference in details. She stated that when Banwari Lal went for diverting water to irrigate his field with the gun, Harish Chandra and Baboo Lal followed him and Pushpa and she herself followed them. She stated that before firing at Harish Chandra, Banwari Lal told them that he would kill them at once and then fired at Harish Chandra. He fell down. Baboo Lal tried to intervene. He was also shot at by Banwari Lal. On Pushpa (P. W. 1) and herself raising an alarm Banwari ran away. Bimla and Sanjay came on the spot. The source of light given by her was an electric bulb. She also proved the memoranda which she had signed.

11. In her cross-examination, she was confronted with her case diary statements and omissions were pointed out in respect of Pushpa (P.W. I) and herself following Banwari Lal, Harish Chandra and Baboo Lal. In the Cross-examination, she had admitted that Banwari Lal had hit Baboo Lal with the barrel of the gun also. The story of Harish Chandra and Baboo Lal trying to snatch the gun from Banwari Lal and during the scuffle the gun having went off accidentally was also put to her but she denied the suggestion.

12. Dr. Om Prakash Sharma (P. W. 3), was examined as a Medical expert. He proved the postmortem reports in respect of both the deceased persons. He deposed that injury No. 1 on the body of Baboo Lal was entry wound caused by fire with blackening. Pellets were not spread in the entry and, therefore, according to him the gun shot was fired from a close range. Injuries Nos. 2 and 4 on his body were exit wounds caused from the pellets. The pellets were entered the body through injury No. 1 which was on right side of the chest and went off to the right side of the back. The direction of the pellets was rightward. He further deposed that injuries Nos. 5 to 10 on the body of Baboo Lal were caused by blunt object

and if a person was struck with the barrel of the gun using it as a 'Lathi', such injuries could be caused. He has also deposed that the possibilities of accidental fire during the scuffle for snatching the gun, cannot be ruled out.

13. As regards injuries on the body of Harish Chandra, the witness stated that injury No. 1 was a single aperture entry wound with blackening. There was no spread of pellets in this injury and the fire was from a close range. Injuries Nos. 2, 3 and 4 on the body of Harish Chandra were exit wound, of the pellets. The pellets had entered his body from the left side of the chest travelled rightwards. All the injuries were caused by one fire alone and a 'dat' has been received from his body. He also stated that the possibilities of accidental fire during scuffle for snatching the gun, cannot be ruled out.

14. Hardutt Singh, (P. W. 5), who was called on the spot by Sanjay, the son of the accused Banwari Lal, has turned hostile to the prosecution. He has tried to support the theory of accidental fire of the gun during scuffle for snatching the gun. He is not an eye-witness but he was the first person contacted after the incident and he tried to take the injured persons to Hospital but they succumbed to the injuries before reaching the Hospital. In his examination-in-Chief itself, he started saying that Sanjay came and told him that during scuffle for snatching the gun between his father and his uncles, uncles received gun shot injuries. When he went to the 'dhani' he saw that Baboo Lal and Harish Chandra were injured having received gun shot wounds and wives of Banwari Lal, Baboo Lal and Harish Chandra and Banwari himself were on the spot. He further stated that the wives of Baboo Lal and Harish Chandra told him that their husbands had received gun shot wounds during scuffle for snatching the gun. He further stated that Banwari was trying to make Baboo Lal and Harish Chandra drinking water through a bottle. He was declared hostile. In his cross-examination, he admitted to have signed several memoranda prepared by the Police. When confronted with his case diary statements, he could not explain properly the contradictions and omissions.

15. Statements of Investigating Officer, Richpal Singh (P. W. 7) were also recorded.

16. When we examine the evidence in totality, we find that the testimonies of Pushpa (P. W. 1) and Chandra Kala (P. W. 2), widows of the deceased persons clearly reliable and, the defence theory of the accidental fire of the gun during scuffle wholly unreliable. It is impossible that both the barrels of a gun would get accidentally fired during scuffle in such a manner that two persons said to be snatching the gun would receive simultaneously the injuries of the gun found on the bodies of the deceased persons. The Medical Opinion, cannot be given such an importance in the face of cogent eye-witnesses account. The appellant in his statement under Section 313 of the Code of Criminal Procedure has taken the plea of gun having been fired accidentally in the scuffle. We do not find the defence trustworthy in the face of evidence of eye-witnesses whose presence on the spot cannot be denied and who cannot be said to be interested against the appellant to the extent of falsely implicating him. If the gun had got fired accidentally, there was no reason why these two widows would see to it that the appellant, the only other adult/male member of the family be involved in a false case. Their relations may not be cordial but could not be said to be inimical also as the widows admit that Bimla and Sanjay had immediately reached the spot and Sanjay was sent to arrange a conveyance.

17. The learned counsel for the appellant laid great stress on the prosecution having given up cited witnesses viz., Bimla and Sanjay, the wife and son of the appellant. According to the learned counsel when the presence of these witnesses was admitted on the spot, there was no reason why prosecution should have given up these witnesses. He also submitted that these two witnesses were actually eyewitnesses of the occurrence and an adverse inference should be drawn against the prosecution for their non-examination.

18. The argument appears on the face of it attractive but does not withstand a closer scrutiny.

19. In *Pal Singh v. State of U.P.*, : 1979 CriLJ917 , the Supreme Court has observed that even if some eye-witnesses mentioned in the First Information Report were not examined by the prosecution, an adverse inference cannot be drawn invariably in every such case from the fact of non-examination of such

witnesses alone. When the Court had believed two eye-witnesses and had found that their testimony was absolutely credit-worthy and truthful, it could not have rejected the prosecution case merely because some of the eye - witnesses mentioned in the F. I. R. were not examined. It was further observed that in such cases, the question which has to be determined is not whether the absence of the examination of the independent witnesses would vitiate the prosecution case by itself but whether the evidence actually produced is reliable or not. Once the Court gives a finding of fact that the evidence led by the prosecution is reliable and trust-worthy, the infirmities arising out of non-examination of witnesses will not be sufficient to put the prosecution out of Court.

20. In the present case, there is a plausible explanation for the non-examination of the two witnesses cited by the prosecution. Both the witnesses are closely related with the accused being wife and son respectively of the accused. If the prosecution expects these witnesses not to support it and gives them up, the only inference which could be drawn was that if examined these witnesses would not have supported the prosecution. That would not. make the position of the prosecution worse than the position in which it would have been put, if the witnesses had been examined and turned hostile. Even in that contingency, the Court could have appreciated the evidence as a whole and could have relied on the testimony of eye-witnesses which supported the prosecution discounting the testimony of the witnesses which did not support the prosecution. An adverse inference to the extent that the prosecution has not put up the whole story before the Court and, therefore, its entire evidence should be discredited cannot be drawn in such circumstances. Moreover, the prosecution never admitted these witnesses to be eye-witnesses. It was only admitted that they had arrived on the spot immediately after the incident. It has also to be kept in mind that these witnesses being near relatives of the accused, it was always open to the accused person to get them examined as defence witnesses or moved for their being examined as Court witnesses. Nothing of the sort has been done by the accused person. In such circumstances of the case, therefore, no adverse inference could be drawn from non-examination of these two witnesses.

21. From the overall assessment of the evidence, therefore, it can be safely concluded that the conviction of the appellant does not deserve to be interfered with.

22. The question now remains to be considered is whether in the circumstances of the case, the Capital sentence passed against the appellant can be confirmed?

23. In *Machhi Singh v. State of Punjab*, : 1983 CriLJ1457 , it was observed that the extreme penalty of death need not be inflicted except in gravest cases of extreme culpability. Before opting for the death penalty the circumstances of the 'offender' also require to be taken into consideration along with the circumstances of the 'crime'. Life imprisonment is the rule and death sentence is an exception. A balance sheet of aggravating and mitigating circumstances has to be drawn up and in doing so the mitigating circumstances have to be accorded full weightage and a just balance has to be struck between the aggravating and the mitigating circumstances before the option is exercised.

24. In *Earabhadrapa v. State of Karnataka*, , it was observed that death sentence should not be passed except in rarest of the rare cases.

25. In *Muniappan v. State of Tamil Nadu*, : 1981 CriLJ726 , it was observed that special reason must be given for imposing death sentence and the fact of the murder being terrific would not be adequate reason.

26. In *Shidagouda Ningappa Ghandavar v. State of Karnataka*, : 1981 CriLJ324 , it was observed that the rule that the normal sentence for the offence of murder is life imprisonment should be observed both in letter and in spirit. The death sentence should be imposed in very extreme cases.

27. The trial Court has founded the death sentence on the circumstances that the accused person killed his two younger brother without any provocation. According to the trial Court, the accused person wanted to take water for irrigation without payment of his share of expenses of fitting a Motor-pump on the tube-well. The trial Court has also observed that demanding for one-third share of expenses was not unreasonable and refusal to accept that demand on the part of the accused

person showed that the accused person was greedy and obstinate. The trial Court also observed that the crime was pre-planned, as the accused went for diverting the water to his field with a gun in his hand and when the two brothers followed unarmed, he took it as an insult and taking it against his self-respect, decided to kill them. The trial Court also observed that the way in which the crime was committed was also brutal and deceased Harish Chandra was fired at without any provocation when he was unarmed. When Baboo Lal tried to intervene, he was hit by the 'butt' of the gun and the accused never thought of running away from the spot or to leave the other brother unharmed. The trial Court also observed that the injuries on the dead bodies speaks of the intentional homicide.

28. It is very difficult to agree with the reasonings of the trial Court. It is true that the accused person had without any grave or sudden provocation caused the death of his two younger brothers that it was done on a petty quarrel about share of expenses of Motor-pump is also clear but to say that it was pre-planned would be too much in the circumstances. It appears that when the accused person took his licenced gun with him and went to divert the water of his field declaring his intention to do so and challenging the two brothers he did not entertain any intention to kill the two brothers ab initio. It appears to be more of a bravado with the intention of intimidation. It appears that the intention to kill was developed at the spur of the moment when the two brothers followed the deceased obviously, with the intention not to allow him to take Water unless he paid his share. It appears that the accused person wanted to threaten the two brothers with the gun and expected them to cow-down. The deceased in their turn might not have expected the accused person to fire at them and seem to have taken the bravado of the accused as a mere bluff which they wanted to call by refusing to pay heed to the threats or to take them seriously. When the accused saw that his brothers were not taking the threat seriously, it appears that at the spur of the moment, he felt compelled by the brave stance he had taken to execute his threat and fired at Harish Chandra. This state of mind explains as to why when Baboo Lal tried to intervene, accused person did not directly fire at him but tried to ward him off. by hitting him by the side of the barrel of the gun or by the 'butt' of the gun. If it had been a pre-planned thing, Baboo Lal would also have been fired at almost immediately after Harish Chandra was fired at. It is very difficult to accept that

there was any preplan to commit these two murders. Moreover, the trial Court's conclusion about the money being due from the accused person cannot also be accepted. The only thing which prosecution has established is that there was a dispute between the brothers, the deceased demanding one-third share of the expenses of the Motor-pump and the accused denying the liability on the ground of his having spent money on purchase of a part of the Motor. It cannot be concluded from this that the accused was indebted to his brothers and his not paying the amount would show his greedyness or his obstinacy.

29. In the circumstances of the case, therefore, we do not find that there are any special reasons for imposing death sentence on the accused. The sentence deserves to be reduced to life imprisonment with a fine.

30. In *Palaniappa Gounder v. The State of Tamil Nadu*, : 1977 CriLJ992 , it was observed by the Supreme Court that it is not correct to first consider what compensation ought to be awarded to the heirs of the deceased and then impose by way of fine an amount which was higher than the compensation because the compensation has to come out of the amount of fine. It would be putting cart before the horse by leaving the propriety of fine to depend upon the amount of compensation. It was observed that the first concern of the Court after recording an order of conviction, ought to be to determine the proper sentence to pass. The sentence must be proportionate to the nature of the offence and the sentence including the sentence of fine, must not be unduly excessive. It was further observed that in fact the primary object of imposing a fine is not to ensure that the offender will undergo the sentence in default of payment of fine but to see that the fine is realised, which can happen only when the fine is not unduly excessive having regard to all the circumstances of the case including the means of the offender. It was further observed that since by virtue of Section 357(1)(c) of the Code of Criminal Procedure, compensation can only come out of fine, it is always necessary to consider in the first instance whether the sentence of fine is at all called for, particularly when the offender is sentenced to death or life imprisonment. If so, the fine must not be excessive, having regard to all the circumstances of the case like motivation of the offence, the pecuniary gain likely to have been made by the offender by committing the offence and his means to

pay the fine.

31. This case was considered in a later Supreme Court decision in *Sarwan Singh v. The State of Punjab*, : 1978 CriLJ1598 , observed in this case that the object of the section is to provide compensation payable to the persons who are entitled to recover damages from the person sentenced even though fine does not form part of the sentence. In awarding compensation it is necessary for the Court to decide whether the case is a fit one in which compensation has to be awarded. If it is found that compensation should be paid, then the capacity of the accused to pay the compensation has to be determined. In directing compensation, the object is to collect the fine and pay it to the person who has suffered the loss. The purpose will not be served if the accused is not able to pay the fine or compensation. Imposing a default sentence for nonpayment of fine would not achieve the object. If the accused is in a position to pay the compensation to the injured or his dependents to which they are entitled to, there could be no reason for the Court not directing such compensation. When a person, who caused injury due to negligence or is made vicariously liable is bound to pay compensation it is only appropriate to direct payment by the accused who is guilty of causing an injury with the necessary *Mens Rea* to pay compensation to the person who has suffered injury. It was then observed referring to the decision in *Palaniappa Gounder v. The State of Tamil Nadu*, 1977 Cri LJ 997 (SC) (*supra*), that the Court should not first consider what compensation ought to be awarded to the heirs of the deceased and then impose a fine which is higher than the compensation. It is the duty of the Court to take into account the nature of the crime, the injury suffered, the justness of the claim for compensation, the capacity of the accused to pay and other relevant circumstances in fixing the amount of fine or compensation.

32. In *Guruswamy v. State of Tamil Nadu*, : AIR 1979 SC1177 , compensation was awarded reducing the death penalty to that of life imprisonment. In that case the accused had committed the murder of his father and his brother. The two murders were committed during a family quarrel. The Supreme Court while reducing the sentence of death to that of Life Imprisonment imposed a fine of Rs. 10,000/- and directed payment of amount of fine, when collected to the dependents of the deceased.

33. The circumstances of this case are very much akin to the aforesaid decision.

34. In the present case, though we are of the opinion that the extreme punishment of death sentence is not called for, but while reducing the same to Life Imprisonment, it is necessary to impose in the circumstances of the case, a fine. The appellant is an agriculturist having facilities of irrigation. He had a licensed gun and a share in the house in which he was living, though separately, from his other two brothers. He can be taken to be a middle -class farmer, and would in our opinion be able to pay a fine of Rs. 30,000/-. It has come in the evidence that the deceased besides their wives had four living children each, who were dependent on them. These dependents deserve to be compensated for the loss caused to them. A direction, therefore, deserves to be given for payment of Rs. 15,000/- to the dependants of deceased-Harish Chandra and Rs. 15,000/- to the dependants of deceased-Baboo Lal as compensation out of the fine when recovered.

35. For the aforesaid reasons, the Murder Reference No. 2/95 is answered in the negative and death sentence is not confirmed. D. B. Criminal (Jail) Appeal No. 275/95 is partially allowed. The conviction of the appellant is upheld but the sentence is reduced to Life Imprisonment with a fine of Rs. 30,000/-. When the amount of fine is recovered, a sum of Rs. 15,000/- shall be paid to the dependants of deceased Harish Chandra and the balance of Rs. 15,000/- Hal be paid to the dependants of deceased-Baboo Lal.