

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.8669 of 2014 (O & M)
Date of Decision: *December 21, 2015*

Kolu Devi & another

..... APPELLANTS

VERSUS

Devinder Singh & another

..... RESPONDENT(S)

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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PRESENT: - Mr. S.S. Sidhu, Advocate, for the appellants.

Mr. Yadwinder Pal Singh, Advocate, for
respondent No.1.

Mr. Vinod Gupta, Advocate, for respondent
No.2.

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Jaspal Singh, J

1. The instant appeal has been preferred by Kolu
Devi and Ashok Kumar (parents of Deepak Kumar, deceased)
seeking enhancement of compensation awarded to them by the
Motor Accident Claims Tribunal, Ropar (for short, 'Tribunal')

vide Award dated January 25, 2014, whereby they have been awarded compensation to the tune of ₹ 8,21,298/- on account of death of their son in a vehicular accident.

2. Briefly stated, the facts of the case are that Deepak Kumar (son of claimants – appellants) met with an accident on April 25, 2011, when Maruti Swift Dezire Car No.CH-04J-7076, being driven by respondent No.1 in a rash and negligent manner, hit his motorcycle bearing No.DL-45AQ-3132. The accident took place at about 11.00 PM in the area of village Padiala near Gurudwara Shri Kartarsar, when he was coming from Harmirpur to Chandigarh. Deepak Kumar was driving the motorcycle while his friend Vicky was sitting on pillion. He was taken to Civil Hospital, Kharar, wherefrom, he was referred to PGI, Chandigarh. He remained admitted there from April 26, 2011 to May 15, 2011. Thereafter, he was shifted to Hans Raj Saran at PGI Chandigarh where he remained admitted till December 2012. Doctors of PGI Chandigarh discharged him as it was a non-recovery case. The claimants took him to their native village at Samrala, PO Didwin Tikker, Tehsil & District Hamirpur (HP). His condition deteriorated and on the intervening night of January 18/19, 2013, he was taken to Regional Hospital, Hamirpur (HP) where doctors declared him

dead. FIR No.49 dated April 27, 2011 under Sections 279, 337, 427 IPC, Police Station, Kurali, was registered with regard to the accident.

3. The appellants preferred a claim petition before the Tribunal seeking compensation. The petition was contested by the respondents. From the pleadings of parties, issues were framed and evidence was led.

4. After hearing learned counsel for the parties and on appraisal of material available on record, the appellants were awarded a sum of ₹ 8,21,298/- vide the impugned award, holding respondents, jointly and severally, liable to pay compensation.

5. Dis-satisfied from the aforesaid award, the claimants – appellants have approached this court seeking enhancement of compensation.

6. While assailing the impugned award, learned counsel for the appellant has contended that compensation awarded by the Tribunal is on lower side. Only a meagre amount of ₹ 20,000/- has been awarded towards pain & suffering and funeral charges. No compensation towards love & affection or Attendant charges has been granted. Moreover, Deepak Kumar was unmarried and aged about 22 years at the

time of death. He was a student of B.A.-II and had bright prospects in future.

7. Learned counsel for the respondents have contended that the award passed by the Tribunal is absolutely in consonance with the material available on record and settled canons of law. The amount of compensation awarded to the claimants is already on higher side. The appeal of the claimants – appellants is liable to be dismissed.

8. This court has given an anxious thought to the rival submissions made by learned counsel for the parties and gone through the record available.

9. So far as contention of learned counsel for the appellant regarding inadequacy of compensation is concerned, this Court finds that compensation awarded by the Tribunal is on lower side. On some of the counts like loss of love & affection, Attendant charges, no compensation has been awarded whereas only a meagre amount has been awarded towards funeral expenses/ pain & suffering.

10. The Tribunal has assessed the income of Deepak Kumar (deceased) as ₹ 5,000/- per month and dependency has been worked out to ₹ 3,000/-. The Tribunal by applied multiplier of 18, awarded compensation to the tune of ₹

8,21,298/- including medical expenses, pain & suffering and funeral expenses.

11. Deepak Kumar was an unmarried young boy of the age of 22 years, who lost his life due to sustaining injuries in the vehicular accident. The Tribunal has assessed his income to the tune of ₹ 5,000/- per month and applied deduction to the extent of 50% as he was only survived by his parents. The Tribunal has rightly applied a multiplier of 18 keeping in view the guidelines laid down by the Hon’ble Apex Court in case Sarla Verma Vs. Delhi Transport Corporation, 2009(2) RCR (Civil) 77. Similarly, the claimants are entitled to compensation on account of loss of love & affection as well as Attendant charges. Even, the claimants are entitled to separate amount of funeral expenses.

12. Apart from it, in view of the pronouncement of Hon’ble Apex Court in Rajesh & others vs. Rajbir Singh & others, 2013(3) RCR (Civil) 170, the claimants – appellants are entitled to future prospects to the extent of 50%.

13. Accordingly, the claimants shall be entitled to the enhanced compensation as under:-

1	Income assessed	₹ 5,000/- per month
2	Future Prospects (50% of the income assessed)	₹ 2,500/- per month
3	Total Income (₹ 5,000/- + ₹ 2,500/-)	₹ 7,500/- per month
4	Deduction to the extent of 50% towards personal expenses	₹ 3,750/- per month

5	Annual Dependency (₹ 3,750/- x 12)	₹ 45,000/-
6	Multiplier of 18 (₹ 3,500/- x 12 x 18)	₹ 8,10,000/-
7	Medical Expenses given by the Tribunal	₹ 2,61,298/-
8	Funeral Expenses	₹ 25,000/-
9	Loss of Love & Affection	₹ 1,00,000/-
10	Attendant Charges	₹ 9,000/-
11	Total Compensation (6 + 7 + 8 + 9)	₹ 12,05,298/-

14. In the light of what has been discussed above, the appeal is partly allowed. The claimants – appellants are granted enhanced compensation to the tune of ₹ 3,84,000/- (₹ 12,05,298 - ₹ 8,21,298). The payment of compensation is ordered to be paid within 45 days from the date of receipt of a certified copy of this order, failing which, it shall entail interest @ 7.5% from the date of institution of claim petition till actual realization.

December 21, 2015

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(Jaspal Singh)
Judge