

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1462 of 1994 (O&M)

Date of Decision:01.09.2017

Harjit Kaur and others

.....Appellants

Versus

Gurdial Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. R.P. Dhir, Advocate
for the appellants.

Mr. Luvinder Sofat, AAG Punjab.

AVNEESH JHINGAN, J.

The present appeal is filed against the award dated 9.2.1994 passed by the Motor Accident Claims Tribunal, Hoshiarpur (hereinafter referred to as 'the Tribunal'). The claim petition was filed under Section 166 of the Motor Vehicle Act, 1988 (for short 'the Act') by Harjit Kaur widow of Hardev Singh @ Gurdev Singh, his three minor children and parents of Hardev Singh. Compensation of ₹ 20,00,000/- was claimed as of Hardev Singh @ Gurdev Singh lost his life on 8.4.1992 in an accident. The Tribunal, after considering the witnesses and evidence produced, awarded ₹ 12,00,000/- to the claimants.

Aggrieved of the said award, the present appeal has been filed by the claimants. The facts necessary for the adjudication of the present appeal are noted below:

On 8.4.1992 Hardev Singh @ Gurdev Singh (deceased) was sitting behind the Scooter No.PRH-9785 which was being driven by

Rachhpal Singh. They were coming from Adampur to Hoshiarpur on their Scooter No.PRH-9785. At about 12:45 p.m. Punjab Roadways Bus bearing registration No.PJG-2004 came from Hoshiarpur side at a high speed. The said bus was driven by Gurdial Singh, in a rash and negligent manner and it hit the scooter, as a result Hardev Singh and Rachhpal Singh fell on metalled road and both died on the spot.

The claimants claimed before the Tribunal that the deceased-Hardev Singh was working in Dubai and was earning ₹ 15,000/- per month. It was further pleaded that he was survived by three minor children, widow and old parents. The Tribunal considering the entire evidence and witnesses granted a compensation of ₹ 12,00,000/-.

Learned counsel for the appellants argued that the Tribunal while granting the compensation has not considered the amount to be awarded under various heads like loss of consortium, loss of love and affection and loss of estate and no funeral expenses have been awarded.

Learned counsel for the respondents vehemently argued that the Tribunal has already granted the excess compensation of ₹ 12,00,000/-, hence, no further interference is called for in the award.

After hearing learned counsel for the parties and perusing the paper book, it is apparent that the Tribunal has not granted any amount under various heads.

Hon'ble the Apex Court in ***Asha Verman and others Vs. Maharaj Singh and others, 2015(4) SCC (Civil) 767***, held as under:

“17. Further, the High Court has erred in awarding only ₹ 5,000/- each towards loss of estate, funeral expenses and loss of consortium. We award

*₹1,00,000/- towards loss of estate according to the principles laid down in the case of **Kalpanaraj & Ors. v. Tamil Nadu State Transport Corporation**, 2014 (2) R.C.R.(Civil) 876: 2014 (3) Recent Apex Judgments (R.A.J.) 112: 2014 (5) SCALE 479, ₹ 25,000/- towards funeral expenses and ₹ 1,00,000/- towards loss of consortium as per the principles laid down by this Court in the case of **Rajesh & Ors. Vs. Rajbir Singh & Ors.**, 2013 (3) R.C.R. (Civil) 170; 2013(3) Recent Apex Judgments (R.A.J.).659; (2013) 9 SCC 54.*

*18. Further, we award ₹ 1,00,000/- each to the appellant-children towards loss of love and affection due to the loss of their father(deceased) as per the decision of this Court in the case of **Juju Kuruvila & Ors. vs. Kunjamma Mohan & Ors.**, 2013(3) R.C.R. (Civil) 817 : 2013(4) Recent Apex Judgments (R.A.J.) 364 : (2013)9 SCC 166. Further, a sum of ₹ 50,000/- is awarded to each of the appellant-parents towards loss of love and affection of their deceased son as per the principles laid down by this Court in the case of **M Mansoor & Anr. vs. United India Insurance Co.Ltd.**, 2013(4) R.C.R.(Civil) 729 : 2013 (5) Recent Apex Judgments (R.A.J.) 516 : 2013 (12) SCALE 324.*

A perusal of the above decision shows that Hon'ble the Apex Court has enhanced the compensation awarded by the High Court under the Heads-loss of estate, funeral expenses and loss of consortium and also awarded compensation under the head of loss of love, care and guidance of the minor children.

Hon'ble the Apex Court in **Rajesh and others Versus Rajbir Singh and others**, 2013 (9) SCC 54, has held as under:

“The ratio of a decision of this Court, on a legal issue is a precedent. But an observation made by this Court, mainly to achieve uniformity and consistency on a socio-economic issue, as contrasted from a legal principle, though a precedent, can be, and in fact ought to be periodically revisited, as observed in Santhosh Devi (supra). We may therefore, revisit the practice of awarding compensation under conventional heads; loss of consortium to the spouse, loss of love, care and guidance to children and funeral expenses. It may be noted that the sum of ₹ 2500/- to ₹ 10,000/- in those heads was fixed several decades ago and having regard to inflation factor, the same needs to be increased.”

A perusal of the above decisions shows that the compensation under the heads mentioned therein is to be awarded.

After further perusal of the above decisions, it is clear that the claimants should have been awarded the compensation for loss of love and affection, loss of consortium and funeral expenses.

Keeping in view the age of the deceased at the time of accident and that he was survived by the minor children, widow and old parents, a sum of ₹ 1,00,000/- is awarded for loss of love and affection; ₹ 50,000/- is awarded for loss of care and guidance of minor children; ₹ 75,000/- is awarded for loss of consortium and ₹ 25,000/- for funeral expenses.

The appeal is partly allowed. The award dated 9.2.1994 is modified to the extent that compensation of ₹ 12,00,000/- is enhanced to ₹ 14,50,000/-. The enhanced compensation shall be paid to the

claimants along with interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

01.09.2017

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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No