

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 203

FAO-2472-1994

Decided on : 01.08.2017

Joginder Kaur and others

..... Appellants

VERSUS

Jaghir Singh @ Jasbir Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.P.S.Rana, Advocate, for the appellants.

Mr.R.C.Kapoor, Advocate, for respondent No.7-Insurance Company.

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DEEPAK SIBAL, J. (ORAL)

The appellants through a claim petition filed before the Motor Accidents Claims Tribunal, Karnal (for short “the Tribunal”) sought compensation on account of death of Sukhdev Singh, who was the husband of appellant No.1 and father of appellants No.2 and 3.

The case set up by the appellants before the Tribunal was that on 05.12.1989 Sukhdev Singh had met with an accident which had resulted in his death. Such accident had occurred due to the rash and negligent driving of respondent No.1. Respondents No.2 to 6, who were the legal representatives of the owner of the offending vehicle, denied that Sukhdev Singh had died in the manner as projected by the appellants. It was further submitted by them that the offending vehicle had turned turtle in the course of respondent No.1 trying to avoid an accident with a truck coming from the opposite side. The income of the deceased as projected by the appellants was also denied. The Insurance Company also opposed the claim of the appellants and further went on to state that since respondent No.1 was not holding a valid driving licence, he had violated the terms & conditions of the insurance policy and thus,

compensation, if any, to be awarded, should be payable by respondents No.1 to 6 and not the Insurance Company.

After hearing learned counsel for the parties as also assessing the evidence led by them, the Tribunal was of the opinion that Sukhdev Singh had met with an accident with the offending vehicle which was being driven by respondent No.1 in a rash and negligent manner. The objection raised by the Insurance Company that respondent No.1 was not holding a valid driving licence was also considered and rejected. After having opined on the above issue, the Tribunal went on to determine the payable compensation to the appellants. Sukhdev Singh's income was assessed and after applying the applicable multiplier, the appellants were held entitled to Rs.96,000/- alongwith Rs.2,000/- as funeral expenses. The appellants were further held entitled to interest @ 12% per annum from the date of presentation of the claim petition till the satisfaction of the award with a rider that the payment of interest after the date of the award would cease if the awarded amount is deposited within a period of twelve months.

Learned counsel for the appellants seeks the grant of compensation on account of "loss of consortium" @ Rs.1,00,000/- to appellant No.1-widow of the deceased. Compensation on account of "loss of love and affection" to appellants No.2 and 3 who were the sons of the deceased @ Rs.1,00,000/- each is also claimed. Enhancement in the grant of funeral expenses @ Rs.25,000/- is also sought. In support of his claim, learned counsel for the appellants has cited the following judgments of the Apex Court:

1. *Rajesh and others vs. Rajbir Singh and others*; 2013(9) SCC 54.
2. *Asha Verman and others vs. Maharaj Singh and others*; 2015(11) SCC 389.

Learned counsel for respondent No.7-Insurance Company very

fairly acknowledges the entitlement of appellant No.1-widow of the deceased to grant of compensation on account of loss of consortium and to appellants No.2 and 3 on account of loss of love and affection but submits that the amount being claimed by the appellants is on the higher side as the same is claimed on the basis of the judgments of the Apex Court wherein the accidents which formed the basis for the award of compensation had taken place in the years 2006/2007 whereas in the case in hand, the accident had taken place in the year 1989.

In view of the settled position of law appellant No.1, being the widow of the deceased, for having lost her spouse's love, affection, comfort, solace and protection etc. is held entitled to the grant of compensation under the head "loss of consortium" and appellants No.2 and 3, who are Sukhdev Singh's minor sons, to compensation on account of "loss of love and affection" for having lost the love and affection of their father at a very early age of their lives.

Now the quantum of compensation under both the afore heads is to be determined.

In *Rajesh's case* (supra), the fatal accident took place on 05.10.2007 and in that judgment which was pronounced by the Apex Court on 12.04.2013, it was directed that it would be just and reasonable that the Court awards at least Rs.1,00,000/- to the widow for loss of consortium. In the same judgment, Rs.1,00,000/- was granted to the minor children for loss of love and affection. So far as the funeral expenses were concerned, Rs.25,000/- were awarded.

In *Asha Verman's case* (supra), the accident took place on 27.11.2006 and the date of pronouncement of the judgment is 27.03.2015 through which under the head "loss of consortium" Rs.1,00,000/- was granted

to the widow and for “loss of love and affection” Rs.1,00,000/- was granted to each of the children.

It is true that the Apex Court in both the above judgments has granted Rs.1,00,000/- on account of “loss of consortium” to the widow and also awarded Rs.1,00,000/- to the children for “loss of love and affection”. However, as noticed earlier, in those cases, the respective accidents took place on 05.10.2007 and 27.11.2006 whereas in the present case, the accident resulting in the death of Sukhdev Singh admittedly took place in the year 1989 i.e. over sixteen years before the date of accident in both the above referred judgments of the Apex Court.

Thus, sixteen years is the period between the date of accident in the present case and the dates of the accidents in *Rajesh's case* (supra) and *Asha Verman's case* (supra) in which cases the Apex Court has granted Rs.1,00,000/- to the widow for loss of consortium and Rs.1,00,000/- to the minor children for loss of love and affection. Information derived from the website of the International Monetary Fund, with the base year of 2010, shows the wholesale price index value in India to be 25.77 in the year 1989, while the same value for the year 2006 is shown as 78.23. So far as the Consumer Price Index is concerned, with the base year 2010, the index value in India is shown as 20.99 in the year 1989 while the same value for the year 2006 is depicted to be 69.87. Also that for the above period the prices in India are shown to have increased by 232.87%. The website further goes on to show that in India the value of Rs.20.99 in the year 1989 would be Rs.69.87 in the year 2006.

In view of the above, but without delving deep into the figures with mathematical precession, I am of the opinion that the interest of justice would be served by awarding to appellant No.1-the widow of the deceased compensation @ Rs.50,000/- for loss of consortium and appellants No.2 and 3-

minor children of the deceased Rs.50,000/- each for the loss of love and affection. The funeral expenses which have been awarded @ Rs.2,000/- by the Tribunal are also found to be on the lower side and are enhanced to Rs.5,000/-. The appellants are also held entitled to simple interest @ 7.5% per annum on the enhanced amount from the date of the filing of the claim petition till its realization.

The appeal is allowed in the above terms.

No costs.

01.08.2017
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No