

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.626 of 1999

Date of decision:- February 07, 2017

SMT. GIARSI AND ANOTHER

....APPELLANTS..

VS.

SATYAVIR AND OTHERS

....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. J.S. Yadav, Advocate,
for the appellants.

Mr. R.K. Bishamboo, Advocate,
for respondent No.4-Insurance Company.

JASPAL SINGH, J.

Feeling aggrieved against the award dated 24.08.1998, passed by Motor Accident Claims Tribunal, Narnaul (for short, "Tribunal") in MACT No.89 of 1997, captioned as "*Smt. Giarsi and another vs. Satyavir and others*" under Sections 166 and 140 of the Motor Vehicles Act, 1988 (for brevity, "the Act"), whereby the claimants were awarded compensation to the tune of ₹1,44,000/-, on account of death of Govind Ram in a vehicular accident occurred on 26.05.1997, they have preferred the instant appeal for enhancement thereof.

2. Concededly, the monthly income of the deceased was assessed as ₹1500/- by Id. Tribunal and the appellants-claimants were granted the compensation to the tune of ₹1,44,000/- after deducting 1/3rd of the expenses which deceased would have incurred towards maintaining himself

had he been alive. The annual dependency was worked out to ₹12,000/- (₹1000x12). The multiplier of 12 was applied taking into consideration the age of the deceased to be 45 years at the time of his death. Thus, it is evident that nothing has been awarded on account of loss of consortium, loss of estate, funeral expenses, future prospects and loss of love and affection. Thus, the amount of compensation awarded in lump sum on account of death Govind Ram is unjust and inadequate, especially, in view of the guidelines laid down by Hon'ble Apex Court in case captioned as ***“Smt. Sarla Verma and others vs. Delhi Transport Corporation and another” 2009(3) RCR (Civil) 77*** which has subsequently been approved in case captioned as ***“Rajesh vs. Rajbir 2013 (3) RCR (Civil) 170***. As per the guidelines, the claimants are entitled for compensation on account of loss of consortium, funeral expenses and loss of love and affection. In view of the age of the deceased i.e. 45 years, 30% of the income i.e. 450/- is to be added as future prospects, thus, it comes out to ₹1950/-(1500+450). After deducting 1/3rd i.e. ₹650/- as personal expenses, the dependency of the claimants comes to 1300/- per month. As the age of the deceased was 45 years, multiplier of 14 should have been applied. Thus, total amount of compensation on account of loss of income comes to ₹2,18,400/- (1300x12x14). Similarly, the appellants-claimants are also entitled for a sum of ₹25,000/- on account of funeral expenses and a sum of ₹1,00,000/- on account of loss of love and affection. Besides it, Smt. Garsi Devi, widow of Govind Ram (deceased) is entitled to a sum of ₹1,00,000/- by way of compensation on account of loss of consortium. Thus, the total amount works out to ₹5,87,400/- to which, the claimants are entitled on account of

death of Govind Ram. As such, the claimants shall be entitled to enhanced compensation to the tune of ₹4,43,400/- i.e. an amount in addition to the compensation of ₹1,44,000/- already awarded by the Tribunal.

3. In the light of what has been discussed above, the appeal is partly allowed. Appellants-claimants shall be entitled to enhanced amount of ₹4,43,400/- in addition to the compensation already awarded. Out of the compensation, claimant No.1-Giarsi widow of Govind Ram shall be exclusively entitled to the tune of Rs.1 lac on account of loss of consortium whereas remaining amount shall be equally shared by all the claimants/appellants. Although as per award there is joint liability of compensation upon respondents No. 1 to 4 yet the insurer i.e. insurance company-respondent No.4 is directed to pay the amount so enhanced within a period of two months from the date of receipt of certified copy of this order and on its failure to make the payment within stipulated period, it would entail interest @ ₹6% per annum from the date of filing of the claim petition before the Tribunal till its realization.

4. Parties to bear their own cost.

February 07, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No