

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 2421 of 2001 (O&M)

Date of Decision: 12.10.2017

Paramjit Kaur and another

.....Appellants

Versus

Babu Lal and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Dinesh Maurya, Advocate
for the appellants.

Mr. Manoj K. Sood, Advocate
for respondents No. 1 and 2.

Mr. Pardeep Goyal, Advocate
for respondent No.3.

AVNEESH JHINGAN, J.

The present appeal has been filed against the award dated 1.10.1999 passed by the Motor Accidents Claims Tribunal, Sangrur (for short 'the Tribunal').

This was burnt case and has been reconstructed from the salvaged record and copies supplied by counsels subject to all just exceptions.

The brief facts necessary for adjudication of the present appeal are as under:

On 9.6.1996 Jagmail Singh alias Bhola Singh aged 35 years, met with a motor vehicular accident. He was driving Tata 709 Canter bearing registration No. PB-13-D-6391. He was struck by rashly and negligently truck bearing registration No.U.S.D.-491 (for short 'the offending vehicle'). As a result of the accident, he suffered injuries and was

taken to Civil Hospital, Narwana. He was referred to PGIMS Rohtak but he was taken to Civil Hospital, Sangrur, where he succumbed to injuries.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by widow and three children of the deceased.

The Tribunal awarded a sum of Rs.2,24,000/- along with interest at the rate of 12% per annum.

Aggrieved of the said award, the present appeal has been filed for enhancement.

I have heard learned counsel for the parties and perused the paper book and record.

There is no dispute by either of the parties on the facts of the case. The income assessed is also not disputed.

Learned counsel for the appellants has argued that the deceased was 35 years of age and the learned Tribunal erred in applying the multiplier of 14. He further contended that the learned Tribunal has not awarded any compensation under the conventional heads.

Learned counsel for respondent No.3-Insurance Company defended the award but could not raise any serious objections, in view of the settled proposition of law, with regard to multiplier and awarding the compensation under conventional heads.

The Tribunal erred in applying multiplier of 14 for deceased aged 35 years but as per decision of Hon'ble the Supreme Court in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121,** the multiplier of 16 should have been applied. The amount of compensation is re-calculated by applying the multiplier of 16 and adopting

the annual dependency as assessed by the Tribunal.

$$2000 \times 12 = 24000$$

$$\text{less } 1/3 \text{ self expenses } 24000 - 8000 = 16000.$$

$$16000 \times 16 = 2,56,000.$$

The contention of learned counsel for the appellants that the Tribunal ought to have awarded compensation under conventional heads, has a substance and deserves acceptance.

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. Kunjujamma 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.”

From the above decisions, it is evident that the Tribunal erred in not considering the conventional heads, while awarding the compensation. The deceased was survived by young widow and children. In such situation, loss of consortium, loss of love and affection, loss of estate etc, should have been considered while coming to a just and equitable compensation.

law laid down by Hon'ble the Apex Court, following amounts are awarded under conventional heads as per Table given below:

<i>Sr. No.</i>	<i>Description</i>	<i>Amount earlier awarded by the Tribunal</i>	<i>Amount now awarded</i>
1	Loss of dependency	Rs.2,24,000/-	Rs. 2,56,000/-
2	Loss of consortium	Not awarded	Rs.30,000/-
3	Funeral expenses	Not awarded	Rs.10,000/-
4	Loss of love and affection	Not awarded	Rs.50,000/-
5	Loss of estate	Not awarded	Rs.25,000/-
6	Transportation of dead body	Not awarded	Rs.5,000/-
	Total	Rs.2,24,000/-	Rs.3,76,000/-

The award dated 1.10.1999 is modified to the extent that amount of Rs.2,24,000/- awarded by the Tribunal is enhanced to Rs.3,76,000/-.

The claimants shall be entitled to enhanced amount along with interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the claim amount.

The appeal is partly allowed in the aforesaid terms.

12.10.2017
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No