

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1314 of 2005

Date of decision:- March 28, 2017

SMT. SHANKARI KAUR AND OTHERS

....APPELLANTS..

VS.

PIARE LAL AND ANOTHER

....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. V.B. Aggarwal, Advocate,
for the appellants.

Ms. Bhawna Grewal, Advocate for
Mr. S.K. Yadav, Advocate,
for respondent No.1.

Mr. Vipul Sharma, Advocate for
Mr. Paul S. Saini, Advocate,
for respondent No.2.

JASPAL SINGH, J.

Feeling aggrieved against the award dated 21.09.2004, passed by Motor Accident Claims Tribunal, Kurukshetra (for short, "Tribunal") in MACT No.80 of 2003, captioned as "*Smt. Shankari Kaur and others vs. Piare Lal and another*" under the provisions of Motor Vehicles Act, 1988 (for brevity, "the Act"), whereby the claimants were awarded compensation to the tune of ₹3,82,640/-, on account of death of Sucha Singh in a vehicular accident occurred on 17.06.2003, in the area of Police Station Bilaspur, appellants have preferred the instant appeal for enhancement thereof.

2. Concededly, the monthly income of the deceased was assessed as ₹2400/- by Id. Tribunal and the appellants-claimants were granted the

compensation to the tune of ₹3,82,640/- after deducting 1/5th of the expenses which deceased would have incurred towards maintaining himself had he been alive. The annual dependency was worked out to ₹23,040/-. Applying the multiplier of 16, the total dependency came to ₹3,68,640/-. In addition to it, a sum of ₹5000/- has also been awarded on account of loss of consortium, a sum of ₹5000/- on account of funeral expenses and a sum of ₹2,000/- towards medical expenses as well as a sum of ₹2000/- as transportation charges, totalling to ₹3,82,640/-. Thus, it is evident that nothing has been awarded on account of future prospects and loss of love and affection whereas the amount of compensation awarded on account of loss of consortium and funeral expenses 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 appellants-claimants are also entitled for compensation on account of future prospect and loss of love and affection. In view of the age of the deceased i.e. 35 years, 50% of the income i.e. ₹1200/- p.m. is to be added as future prospects, thus, it comes out to ₹3600/-(2400+1200).

3. Ld. Tribunal has made the deduction of 1/5th, in fact, as per ***Sarla Verma's case***, where the number of dependent family members is 4 to 6, deduction should be 1/4th. Thus, after deducting 1/4th i.e. ₹900/- as personal expenses, the dependency of the claimants comes to ₹2700/- per month. As the age of the deceased was 35 years, multiplier of 16 has been

rightly applied by the Id. Tribunal. Thus, total amount of compensation on account of dependency comes to ₹5,18,400/- (2700x12x16). Similarly, the appellants-claimants are also entitled for a sum of ₹1,00,000/- on account of loss of love and affection, ₹95,000/- on account of loss of consortium in addition to a sum of ₹5000/- already awarded and ₹18,000/- towards funeral expenses and transportation in addition to a sum of ₹7000/- which has also already been awarded by Id. Tribunal. Thus, the total amount works out to ₹7,43,400/- to which, the claimants are entitled on account of death of Sucha Singh. As such, the appellants-claimants shall be entitled to enhanced compensation to the tune of ₹3,60,760/- i.e. an amount in addition to the compensation of ₹3,82,640/- already awarded by the Tribunal.

4. In the light of what has been discussed above, the appeal is partly allowed. Appellants-claimants shall be entitled to enhanced amount of ₹3,60,760/- in addition to the compensation already awarded. Although as per award there is joint liability of compensation upon respondents No. 1 and 2 yet the insurer i.e. insurance company-respondent No.2 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 @ ₹9% per annum from the date of filing of the clam petition before the Tribunal till its realization.

5. Parties to bear their own cost.

March 28, 2017
sonika

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No