

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-913-2006 (O&M)
Date of decision: 13.10.2017

Madhu Bansal and others

.... Appellants

Versus

Umed Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Amit Singla, Advocate
for the appellants.

Mr. Ravi Pratap, AAG, Haryana.

Avneesh Jhingan, J.

The present appeal has been preferred against the award dated 18.12.2004 passed by Motor Accidents Claims Tribunal, Hisar (hereinafter referred to as the 'Tribunal').

On 29.05.2002, Prem Chand met with an accident and lost his life. He was struck by bus bearing registration No.HR-39-7039 of Haryana Roadways which was being driven in a rash and negligent manner.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed.

The Tribunal after considering the witnesses and evidence, awarded a sum of Rs.2,95,000/- along with interest @ 9% per annum. The present appeal has been filed for enhancement of compensation.

Learned counsel for the appellants has not challenged the

income assessed by the Tribunal but has argued that the deceased was survived by four dependants, 1/4th deduction for self expenses should have been made whereas the Tribunal has made 1/3rd deduction for self expenses. He further contended that the age of the deceased has been proved as 48 years and the multiplier of 13 should have been applied instead of 12. He contended that the amounts awarded for loss of consortium and funeral expenses are on the lower side. He argued that nothing has been awarded for loss of love and affection and loss of estate.

Learned counsel for the respondent defended the award and argued that the amount awarded is sufficient and no further enhancement is called for.

I have heard the learned counsel for the parties and perused the paperbook and record with their able assistance.

The contention raised by learned counsel for the appellants deserves acceptance.

The Hon'ble Apex Court in *Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121*, has held that the deduction for self expenses is to be made depending on number of dependents. In case the dependants are 4 to 6, 1/4th deduction is to be made on account of self expenses.

The Hon'ble Apex Court in *Smt. Sarla Verma's case (supra)* has also specified that the multiplier of 13 is to be applied in case of 48 years old deceased.

Keeping in view the facts and legal position, the loss of

dependency is re-calculated as under :-

Income	Rs.3000/-
1/4 th deduction for self expenses	Rs.750/-
Dependency	(Rs.3000/---Rs.750/-)=2250/-
Annual income	Rs.2250x12=27,000/-
Applying multiplier of 13	Rs.27,000/-x13=Rs.3,51,000/-

The contention of learned counsel regarding enhancement of the amount awarded and for awarding the amount under various heads is supported by the decision of the Hon'ble Apex Court in case of **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 Rs.5,000/- each towards loss of estate, funeral expenses and loss of consortium. We award Rs.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, Rs.25,000/- towards funeral expenses and Rs.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 Rs.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 Rs.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 Rs.2500/- to Rs. 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 and further need to be increased from time to time.

In the present case, the deceased was survived by 40 years old age of widow, one major son, one minor daughter and an old mother.

Keeping in view the decisions referred above and the facts and circumstances of the case, the amounts awarded by the Tribunal are enhanced and amounts are awarded for loss of love and affection and loss of

estate, as per table given below:-

<i>Sr.No.</i>	<i>Heads</i>	<i>Amount earlier awarded by the Tribunal</i>	<i>Now awarded</i>
1	Loss of dependency	Rs.2,88,000/-	Rs.3,51,000/-
2	Loss of consortium	Rs.5,000/-	Rs.50,000/-
3	Funeral and transportation expenses	Rs.2,000/-	Rs.20,000/-
4	Loss of estate	Not awarded	Rs.25,000/-
5	Loss of love and affection	Not awarded	Rs.1,00,000/-
	Total	Rs.2,95,000/-	Rs.5,46,000/-

The award dated 18.12.2004 is modified to the extent that the amount awarded by the Tribunal of Rs.2,95,000/- is enhanced to Rs.5,46,000/-.

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

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

13.10.2017
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- 1.Whether the order is speaking/reasoned: Yes
- 2.Whether the order is reportable : Yes