

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

FAO No. 2905 of 2010

DATE OF DECISION : 25.10.2017

Vidhya Kaur and others

.... APPELLANTS

Versus

Rajender Singh and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Rajinder Goyal, Advocate,  
for the appellants.

Mr. Neeraj Khanna, Advocate,  
for respondent No.3 - Insurance Company.

\* \* \*

**AVNEESH JHINGAN, J.** ( Oral )

The present appeal has been filed against the award dated 01.12.2009 passed by the Motor Accident Claims Tribunal, Kaithal (for short 'the Tribunal').

On 01.08.2006, Kashmir Singh, aged 40 years, met with a motor vehicle accident. He was hit by a truck bearing registration No. HR 38F-8433, which was being driven in a rash and negligent manner. As a result of the accident, Kashmir Singh suffered grievous injuries, including head injury. FIR No. 149 dated 02.08.2006 was registered at Police Station Cheeka. Unfortunately, Kashmir Singh died on 15.01.2007.

Claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by the legal representatives of Kashmir Singh.

The Tribunal, after considering the evidence and witnesses, awarded a sum of ₹ 2,50,000/- to the claimants along with interest at the rate of 7 ½ % per annum.

The present appeal has been filed by the claimants for enhancement of the compensation.

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

The facts of the case have not been disputed by either of the party.

Learned counsel for the appellants argued that out of the amount of ₹ 2,50,000/- awarded by the Tribunal, a sum of ₹ 2,42,035/- is on account of medical bills. He argued that Kashmir Singh was hospitalised from 02.08.2006 to 20.10.2006 and ultimately, he died on 15.01.2007. He further argued that no amount has been awarded by the Tribunal under the heads of pain and suffering; special diet and transportation etc.

Learned counsel for respondent No.3 – Insurance Company argued that sufficient amount has already been awarded by the Tribunal and the claimants have failed to prove that the death of Kashmir Singh was as a result of the injuries suffered in the accident. Hence, no enhancement is called for.

The contentions raised by learned counsel for the appellants deserve acceptance. While dealing with the issue of awarding compensation in personal injury cases, the Hon'ble Apex Court in ***G. Ravindranath @ R. Chowdary Versus E. Srinivas and another***, 2013(12)SCC 455, observed as under:

*"It is settled law that compensation in personal injury cases should be determined under the following heads:*

*Pecuniary damages (Special damages)*

*(i) Expenses relating to treatment, hospitalisation, medicines, transportation, nourishing food and miscellaneous expenditure.*

*(ii) Loss of earnings (and other gains), which the injured would have made had he not been injured, comprising:*

*(a) Loss of earning during the period of treatment;*

*(b) Loss of future earnings on account of permanent disability.*

*(iii) Future medical expenses.*

*Non-pecuniary damages (General damages)*

*(iv) Damages for pain, suffering and trauma as a consequence of the injuries.*

*(v) Loss of amenities (and/or loss of prospects of marriage).*

*(vi) Loss of expectation of life (shortening of normal longevity).*

*12. In routine personal injury cases, compensation will be awarded only under head (i), (ii) (a) and (iv). It is*

*only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii) (b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life."*

From a perusal of the above decision, it is evident that in case of fatal injuries, both pecuniary and non-pecuniary damages should be compensated.

In the present case, the injured died after about five and half months of the accident. He was survived by widow, two major children and one minor daughter. The Tribunal, while awarding compensation, only took care of the medical expenses and did not consider the pain and sufferings, attendant, special diet, loss of income etc.

In the facts and circumstances of the case, it is deemed appropriate that keeping in view the suffering and hospitalisation of the injured and considering the fact that ultimately, the accident resulted in shortening of his life expectancy, instead of awarding amounts under various heads, a consolidated sum of ₹ 2.50 lacs is awarded to the claimants, so that a just and equitable compensation is arrived at. Interest under Section 171 of the Act has been considered, while awarding the lump sum amount.

In view of the above, the award dated 07.11.2003 is modified to

the extent that the appellants are awarded a sum of ₹ 2.50 lacs, over and above the amount already awarded by the Tribunal.

Appeal is partly allowed, in the aforesaid terms.

**October 25, 2017**  
ndj

**( AVNEESH JHINGAN )**  
**JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No