

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

FAO No. 3256 of 2010

DATE OF DECISION : 28.09.2017

Raj Rani and others

.... APPELLANTS

Versus

Dharamvir and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Ms. Ekta Thakur, Advocate,
for the appellants.

Ms. Priya Deep, Advocate, for
Mr. Ashwani Talwar, Advocate,
for respondent No.3-Insurance Company.

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AVNEESH JHINGAN, J. (Oral)

The present appeal has been filed against the award dated 01.10.2009 passed by the Motor Accident Claims Tribunal, Chandigarh (for short 'the Tribunal').

Surinder Kumar, aged 46 years, met with an accident on 02.01.2007. He was driving car bearing registration No. CH-03X-4609. At about 12.00 midnight, on the intervening night of 02.01.2007 and 03.01.2007, near Nilokheri, the car was struck by a Trax bearing registration No. HR-37B-7396. Surinder Kumar suffered multiple injuries and succumbed to the injuries. FIR was registered.

A claim petition under Section 166 of the Motor Vehicles Act, 1988, was filed by the widow, three minor children and mother of the deceased.

The Tribunal, after considering the evidence and witnesses, awarded a sum of ₹ 15,31,000/- along with interest at the rate of 7.5% per annum. The awarded amount included ₹ 5,000/- on account of loss of consortium and ₹ 5,000/- for funeral expenses.

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

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

The facts have not been disputed by either party and even the amount awarded for loss of dependency has not been disputed.

Learned counsel for the appellant argued that the Tribunal has erred in not awarding compensation under various heads. She contended that the Hon'ble Apex Court has held that in case of fatal accidents, compensation under various heads should be granted.

Learned counsel for respondents No.3 – Insurance Company resisted the enhancement and grant of further compensation. However, she could not raise any serious objection with regard to the law laid down by the Hon'ble Apex Court in ***Rajesh and others Versus Rajbir Singh and others***, 2013 (9) SCC 54, and in ***Asha Verma and others Vs. Maharaj Singh and others***, 2015(4) SCC (Civil) 767.

The contention of learned counsel for the appellants deserves acceptance, in view of the law laid down by the Hon'ble Apex Court in the aforesaid two decisions. In ***Rajesh's case*** (supra), it has been 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 Santosh 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.”

Thereafter, following the aforesaid decision in ***Rajesh's case*** (supra), Hon'ble the Apex Court in ***Asha Verma's case*** (supra) 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. 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 ₹ 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.”

In the above decisions, the Hon'ble Apex Court has held that compensation should be awarded under various heads and the amount of compensation should be increased from time to time.

Keeping in view the facts of this case and the law laid down by the Hon'ble Apex Court, the claimants are awarded compensation under various conventional heads and the compensation already awarded by the

Tribunal is enhanced, as per the table given below :-

<i>Head</i>	<i>Amount awarded by the Tribunal</i>	<i>Now awarded by this court</i>
Loss of dependency	₹ 15,21,000/-	₹ 15,21,000/- (no enhancement)
Loss of consortium	₹ 5,000/-	₹ 75,000/- (enhanced by ₹ 70,000/-)
Funeral expenses	₹ 5,000/-	₹ 20,000/- (enhanced by ₹ 15,000/-)
Loss of love and affection	Nil	₹ 1,00,000/- (enhanced by ₹ 1,00,000/-)
Loss of guidance to three minor children	Nil	₹ 50,000/- (enhanced by ₹ 50,000/-)
Loss of estate	Nil	₹ 50,000/- (enhanced by ₹ 50,000/-)
Total	₹ 15,31,000/-	₹ 18,16,000/- (enhanced by ₹ 2,85,000/-)

In view of the above, the award dated 01.10.2009 is modified to the extent that the compensation of ₹ 15,31,000/- awarded by the Tribunal is enhanced to ₹ 18,16,000/-.

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

The appeal is partly allowed and disposed of in the aforesaid terms.

September 28, 2017
sachin/ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes