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

FAO No.2210 of 2011

Date of Decision: 5th September, 2017

Kailash Chand Jain and another

...Petitioner

V/S

Surinder Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Shivam Grover, Advocate for
Mr.G.S. Sidhu, Advocate
for the appellants.

Mr. Chandan Deep Singh, Advocate
for respondents No.3-Insurance Company.

AVNEESH JHINGAN, J. (Oral):

The present appeal has been filed against the award dated 15.01.2011, passed by Motor Accidents Claims Tribunal, Panchkula (hereinafter referred to as “the Tribunal”). Parents of Satish Kumar filed claim under Section 166 of the Motor Vehicles Act, 1988. Satish Kumar met with a motor vehicular accident on 11.06.2009. Unfortunately, he succumbed to injury on 22.06.2009. The Tribunal vide its award dated 15.01.2011, after considering the witnesses and evidence, awarded a sum of ₹1,74,800/- as compensation alongwith interest at the rate of 7.5 % per annum.

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

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

with their valuable assistance.

The facts which have not been disputed are that Satish Kumar, aged 25 years who was going on a motor-cycle bearing registration No. HR-99-CS-4437, had met with an accident with Maxi Cab bearing registration No.CH-23 (T)-3852 (herein referred to as “offending vehicle”). It has been proved on record that the offending vehicle was being driven rashly and negligently. As a result of the accident, Satish Kumar suffered multiple grievous injuries including head injuries. He was taken to General Hospital, Sector-6, Panchkula, from where, he was referred to PGI, Chandigarh. On 22.06.2009, Satish Kumar succumbed to the injuries.

An FIR No.276 dated 15.06.2009 was registered regarding this accident. The Tribunal assessed the earning of the deceased equal to that of a daily wager at the rate of ₹3500/- per month. After deducting ½ of his income towards his personal expenses and by applying the multiplier of 8, an amount of ₹1,72,800/- was awarded as compensation. Apart from this, only ₹ 2,000/- was awarded towards funeral expenses.

The counsel for the appellant argued that the Tribunal has erred in not awarding the medical expenses, for which Ex. P-1 to Ex. P-76 were produced before the Tribunal. He contended that no amount has been awarded for loss of love and affection, transportation of the dead body. The expenses awarded for funeral were also argued to be on lower side.

Counsel for respondent No.3-Insurance Company argued that the deceased was unmarried and the claimants are the parents of the deceased and were aged 55 and 53 years respectively at the time of filing the claim petition and hence, the compensation awarded to them is sufficient and therefore, no interference in the impugned award is called for.

The arguments for the counsel for the appellants deserve acceptance as the Tribunal has failed to grant even the medical expenses, which were proved on record as Exs. P-1 to P-76. A perusal of medical bills shows that total medical expenditure is ₹2,47,000/-. The counsel for the respondent No.3 is not in position to make any serious objection to these bills. It has come on record that the deceased was referred to PGI on 11.06.2009 and he remained in emergency ward till 14.06.2009. Thereafter, he was shifted to ICU ward, where he was treated till his death i.e. 22.06.2009. In such circumstances, it would not be just and fair to restrict the medical expenses only to the receipts produced. Once the deceased was admitted in hospital for almost 11 days, he was to be attended and there would be many expenses, the bills for which might not have been retained. Keeping in view the medical bills produced worth ₹2,47,000/-, an amount of ₹3,00,000/- in lump sum is awarded towards medical expenses.

Hon'ble the Apex Court in ***Asha Verman and nothers Vs. Maharaj Singh and others***, 2015(4) SCC 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 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 **Jaju 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.*

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, 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 other 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”.

As per the above decisions, the Tribunal should have granted compensation under the head of loss of love and affection and even the expenses awarded under the head of funeral expenses and last rights are very meagre.

The old parents have lost their young son aged 25 years. Their grievances and sorrows cannot be compensated. The amounts under various heads are being enhanced and awarded as under :-

Sr. No.	Head	Amount awarded by the Tribunal	Now awarded by this court
1	Dependency	₹ 1,72,800/-	₹ 1,72,800/-
2	Medical expenses	-	₹ 3,00,000/-
3	Loss of love and affection	-	₹ 1,00,000/-
4	Funeral expenses	₹ 2,000/-	₹ 25,000/-
5	Expenses for transportation of dead body	-	₹ 5,000/-
6	Total	₹ 1,74,800/-	₹ 6,02,800/-

As a result, the award dated 15.01.2011, is modified to the extent that the amount awarded of ₹1,74,800/- is enhanced to ₹ 6,02,800/-. The enhanced amount shall be paid to the claimants alongwith interest at the rate of 6% per annum from the date of filing of the claim petitioner till its realization.

(AVNEESH JHINGAN)
JUDGE

05.09.2017
Nisha-I

Whether speaking/reasoned: Yes

Whether Reportable: Yes