

FAO No. 6634 of 2010 (O&M)

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

FAO No. 6634 of 2010 (O&M)

Date of Decision: 29.09.2017

Smt.Murti Devi and others

.....Appellants

Versus

Ranbir Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Alok Kumar Jain, Advocate
for the appellants.

None for respondent No.1.

Mr. Rajat Garg, Advocate for
Mr. T.K. Joshi, Advocate
for respondent No. 2.

AVNEESH JHINGAN, J.

The present appeal is filed against the award dated 1.4.2010 passed by the Motor Accidents Claims Tribunal, Hisar (for short 'the Tribunal') in claim petition No. 84 MACT of 2009.

The brief facts necessary for adjudication of the present appeal are as under:

On 18.3.2009 Sat Narain aged 60 years was driving his motor cycle bearing registration No. HR-32-C-1715 and Om Parkash aged 30 years was the pillion rider. They were coming from Meham to their village Puthi. When they reached near Golla Wala Dabra on Puthi-Samain Road, a Mahendra Max Pick-up Dala No. HR-42-D-0433 (for short 'the offending vehicle') struck their motor cycle. The said vehicle was being driven in a rash and negligent manner. As a result of the accident, both the occupants of the motor cycle died on the spot.

The claim petition under section 166 of the Motor Vehicles Act (for short 'the Act') was filed by widow, one son and one daughter of the deceased Sat Narain. The Tribunal awarded a sum of ₹ 1,26,000/- alongwith interest at the rate of 9% per annum. The said amount includes ₹ 6000/- as funeral expenses.

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

Learned counsel for the appellants argued that the deceased was aged 60 years at the time of accident and the multiplier of 5 has been wrongly applied. Learned counsel further argued that the Tribunal has not awarded any amount under conventional heads.

Learned counsel for the respondent No.2 opposed awarding of compensation under conventional heads but could not raise any serious objection.

The averments made by learned counsel for the appellants deserves acceptance.

The Tribunal ought to have awarded compensation under various conventional heads especially when the claimants are widow and two children.

Hon'ble the Apex Court in ***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 ₹ 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.*

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 ₹ 2500/- to ₹ 10,000/- in those heads was fixed several decades ago and having regard to inflation factor, the same needs to be increased."

From the above decisions, the proposition of law emerges is that in case of fatal injuries, the compensation under various conventional heads mentioned above should be awarded.

The contention of the learned counsel for the appellants that multiplier of 5 has been wrongly applied, has to be accepted keeping in view the decision of Hon'ble the Apex Court in Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121. As per this case law, in case of death of 60 years old, multiplier of 9 has to be applied.

The loss of dependency (contribution to the family as assessed by the tribunal) is recalculated as below:

$2000 \times 9 \times 12 = 2,16,400/-$

Keeping in view the facts and circumstances of the case and the age of the deceased at the time of death, following compensation is awarded as given in the Table below:

Sr. No.	Description	Amount earlier awarded by the tribunal	Amount now awarded
1	Loss of dependency	₹ 1,20,000/-	₹ 2,16,000/-
2	Funeral expenses	₹ 6000/-	₹ 20,000/-
3	Loss of love and affection	Not awarded	₹ 75,000/-

<i>Sr. No.</i>	<i>Description</i>	<i>Amount earlier awarded by the tribunal</i>	<i>Amount now awarded</i>
4	Loss of consortium	Not awarded	₹ 50,000/-
5	Loss of estate	Not awarded	₹ 30,000/-
	Total:	₹ 1,26,000/-	₹ 3,91,000/-

The award dated 1.4.2010 is modified to the extent that the compensation amount awarded of ₹ 1,26,000/- is enhanced to ₹ 3,91,000/-.

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

29.09.2017
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No