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

**FAO No. 1409 of 2012
Date of decision: 21.09.2017**

Baljit Kaur and Others **...Appellants**

Versus

Harmanjit Singh and Others **...Respondents**

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vinay Saini, Advocate for
Mr. G.S. Nagra, Advocate
for the appellants.

Mr. Navin Kapur, Advocate
for respondent No. 3/Oriental Insurance Company.

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AVNEESH JHINGAN, J. (ORAL)

The present appeal has been filed against the decision dated 01.12.2011 passed by Motor Accident Claims Tribunal, Ropar (for short, 'The Tribunal').

Avtar Singh aged 43 years lost his life in an accident on 19.04.2010. He was standing at bus stand Doomcheri to board a bus. He was hit by Trolla Tailer bearing registration No. PB-11-AF-9271. The Trolla fled away after the accident but was apprehended near Sirhind bypass, Morinda. Avtar Singh suffered grievous injuries and was shifted to Civil Hospital, Morinda by the local police where he was declared dead. FIR No. 54, dated 19.04.2010, under Section 279/304-A IPC was registered at Police Station, Morinda.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 was filed by the widow, two minor sons and one minor daughter of the deceased. They claimed ₹ 25,00,000/-(Rupees Twenty Five Lacs only) as compensation.

The Tribunal after considering the evidence and witnesses awarded a sum of ₹ 9,19,000/- along with interest at the rate of 9% per annum. The said amount included ₹ 10,000/- awarded for loss of consortium, another ₹10,000/- for loss of love and affection and for funeral expenses ₹ 5,000/- was awarded.

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

There is no dispute with regard to the facts of the case by either of the parties.

Learned counsel for the appellants argued that the monthly income of the deceased was assessed as ₹ 8,000/- as he was working as a Mason. He is not disputing the income assessed. His grievance is that the Tribunal made a deduction of $1/3^{rd}$ on account of self expenses whereas it should have been $1/4^{th}$. He further contended that the amounts awarded under the three heads are on the lower side.

Learned counsel for the respondents defended the award and argued that amount awarded is already on the higher side and no further interference is called for. He further argued that in spite of the fact that no specific proof of income was given, the Tribunal has assessed the income as ₹ 8,000/- per month.

The contentions raised by learned counsel for the appellants have merit and deserve to be accepted.

With regard to the deduction, the Hon'ble Apex Court in **'Sarla Verma and Others Vs. Delhi Transport Corporation and Another, 2009**

(3) RCR (Civil) Page 77' has held that where the dependents of the deceased are 4 to 6 the, deduction of $1/4^{th}$ should be made for self expenses. As per this decision the loss of dependency is re-calculated as under:-

1. ₹96,000/- annual income as assessed by the Tribunal.
2. Minus ₹24,000/- as $1/4^{th}$ deduction for self expenses.
3. ₹ 72,000/- x 14 = 10,08,000/-

So far as the enhancement of compensation under conventional heads is concerned, the 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.*
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> *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. Kunjujamma 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* ***<u>M Mansoor & Anr. vs. United India Insurance Co.Ltd.,</u>*** *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."

A perusal of the above decisions shows that the compensation under the heads mentioned therein is to be awarded.

As per the above decisions, the compensation awarded under various heads is on the lower side and is required to be enhanced. Even the conventional heads under which compensation has not been awarded should have been granted by the Tribunal. The amounts are awarded as per table below:

S.No.	Heads	Calculations	Now awarded by this Court
1	Loss of Consortium	₹ 10,000/-	₹ 1,00,000
2	Loss of Love and Affection	₹ 10,000/-	₹ 1,00,000
3	Funeral Expenses	₹ 5,000/-	₹ 25,000
4	Loss of Estate	Nil	₹ 25,000

The award dated 01.12.2001 is modified to the extent that amount of ₹9,19,000/- awarded by the Tribunal is enhanced to ₹ 12,58,000/-.

The claimants shall be entitled to interest at the rate 6% per annum from the date of filing of the claim petition, till its realization.

The appeal is partly allowed accordingly.

(AVNEESH JHINGAN)
JUDGE

September 21, 2017
Poonam (II)

Whether speaking/reasoned: *Yes/No*

Whether reportable: *Yes/No*