

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.6106 of 2011

Date of decision:- February 08, 2017

SMT. HUKMI DEVI

....APPELLANT..

VS.

SANJAY AND OTHERS

....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Sumit Gupta, Advocate,
for the appellant.

Mr. Chander Kant Rana, Advocate,
for respondent No.1.

Ms. Vandana Malhotra, Advocate,
for respondent No.3.

JASPAL SINGH, J.

Feeling aggrieved against the award dated 29.07.2011, passed by Motor Accident Claims Tribunal, Panipat (for short, "Tribunal") in MACT No.39 of 2011, captioned as "*Smt. Hukmi Devi and others vs. Sanjay and others*" under Section 166 of the Motor Vehicles Act, 1988 (for brevity, "the Act"), whereby the claimants were awarded compensation to the tune of ₹2,89,600/-, on account of death of Kaka Ram in a vehicular accident occurred on 13.02.2010 at 7:00 a.m. near Girls College, appellant-claimant No.1 has preferred the instant appeal for enhancement thereof.

2. Concededly, the monthly income of the deceased was assessed as ₹4200/- by Id. Tribunal and the appellants-claimants were granted the

compensation to the tune of ₹2,89,600/- after deducting 1/4th of the expenses i.e. ₹1050/- p.m. which deceased would have incurred towards maintaining himself had he been alive. The annual dependency was worked out to ₹37,800/- (₹3150x12). The multiplier of 7 was applied taking into consideration the age of the deceased to be 65 years at the time of his death, it comes to ₹2,64,600/-(37800x7). In addition to it, a sum of ₹10,000/- was awarded on account of loss of love and affection, ₹5000/- on account of transportation charges and ₹10,000/- on account of funeral expenses totalling ₹2,89,600/-. Besides it, ₹5000/- was also awarded to claimant No.1-Hukmi Devi on account of loss of consortium. Thus, it is evident that the amount of compensation awarded in lump sum on account of loss of consortium, loss of love and affection and funeral expenses is unjust and inadequate, especially, in view of the guidelines laid down by Hon'ble Apex Court in case captioned as ***“Smt. Sarla Verma and others vs. Delhi Transport Corporation and another” 2009(3) RCR (Civil) 77*** which has subsequently been approved in case captioned as ***“Rajesh vs. Rajbir 2013 (3) RCR (Civil) 170***. As per the guidelines, the claimant is entitled for a sum of ₹15,000/- more on account of funeral expenses, besides ₹95,000/- on account of loss of consortium. Thus, appellant-claimant No.1 shall be entitled to enhanced compensation to the tune of ₹1,10,000/- i.e. an amount in addition to the compensation of ₹2,89,600/- already awarded by the Tribunal besides ₹5000/- awarded to Hukmi Devi.

3. In the light of what has been discussed above, the appeal is partly allowed. Hukmi Devi-appellant shall be entitled to enhanced amount of ₹1,10,000/- in addition to the compensation already awarded. The

insurance company-respondent No.3 is directed to pay the amount so enhanced within a period of two months from the date of receipt of certified copy of this order and on its failure to make the payment within stipulated period, it would entail interest @7.5% per annum from the date of filing of the clam petition before the Tribunal and it shall be at liberty to recover the enhanced amount from the insured.

4. Parties to bear their own cost.

February 08, 2017
sonika

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No