

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 4668 of 2012 (O&M)

Date of Decision: 31.10.2017

Ranbir and another

.....Appellants

Versus

Kalu Ram and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ajit Sihag, Advocate
for the appellants.

Mr. Rajesh Kumar Sharma, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J.

Unfortunate parents lost their young son Jitender aged 22 years.

The loss of life was as a result of the accident that occurred on 28.1.2011 between the motor cycle bearing registration No.HR-12-G-5137 and rashly and negligently driven Truck bearing registration No. RJ-07-G-7826 (for short 'the offending vehicle).

The Tribunal after considering the case in its entirety awarded a sum of Rs.4,40,000/- to the claimants along with interest at the rate of 6 % per annum.

The present appeal has been filed for enhancement of compensation. The facts have not been disputed by the parties.

The only two issues which arise for consideration are firstly that the deceased was 22 years old and a multiplier of 14 has been applied whereas the multiplier of 18 should have been applied. The second issue raised is that the amounts awarded under the conventional heads are on the lower side.

Learned counsel for the appellants argued on the above said

two issues. He placed reliance upon the decision of Hon'ble the Apex Court in case of **Sarla Verma Vs. Delhi Transport Corporation, (2009) 6 SCC 121.**

Learned counsel for the respondent No.3-Insurance Company resisted the enhancement and argued that multiplier of 14 has been rightly applied by the Tribunal as the deceased was a Bachelor and multiplier according to the age of the parents should have been applied. He further contended that accident took place in the year 2011 and therefore, the amounts awarded under the conventional heads needs no enhancement.

So far as the first issue raised by learned counsel for the appellants is concerned, the said issue has been dealt with by Hon'ble the Apex Court in its latest decision in **Joseph Philip C.J. And another Versus Judies and others 2017(4) RCR (Civil)353.** Hon'ble the Apex Court relying upon its earlier decision held in para-8 as under:

"8. in **Amrit Bhanu Shali & Ors. v. National Insurance Co. Ltd. & Ors. 2012 (4) R.C.R. (Civil) 343 : 2012 (4) Recent Apex Judgments (R.A.J.)427 : (2012) 11 SCC 738 and in Munna Lal Jain & Anr. V. Vipin Kumar Sharma & Ors. 2015 (3) R.C.R. (Civil) 447 : 2015 (3) Recent Apex Judgments (R.A.J.) 459 : (2015) 6 SCC 347**, this court has held that even if the deceased is a bachelor, his age has to be taken into account for adopting a multiplier. In the present case, the High Court has taken the age of the mother of the deceased into consideration while applying the multiplier. Since the age of the deceased was 24 years, the High Court should have given the benefit of multiplier of 18."

Keeping in view the above referred decisions, loss of dependency is recalculated taking the dependency as assessed by the

Tribunal and applying the multiplier of 18 as per **Sarla Verma's case (supra)**, and the calculation comes as:

$$2500 \times 12 \times 18 = 5,40,000.$$

Hon'ble the Apex Court in case of **Joseph Phillip C.J's case (supra)** was dealing with a case where the parents had lost their only 24 years old son. In that case, the accident had occurred in 2004 and the amount for loss of love and affection was enhanced from Rs.25,000/- to Rs.50,000/-.

Keeping in view the facts of the case and that the accident occurred in 2011, the amount awarded under various heads are enhanced as per Table given below:

<i>Sr. No.</i>	<i>Description</i>	<i>Amount earlier awarded by the Tribunal</i>	<i>Amount now awarded</i>
1	Loss of dependency	Rs.4,20,000/-	Rs.5,40,000/-
2	Loss of love and affection	Rs.10,000/-	Rs.75,000/-
3	Loss of estate	Rs.5000/-	Rs.25000/-
4	Funeral expenses	Rs.5000/-	Rs.15000/-
	Total:	Rs.4,40,000/-	Rs.6,55,000/-

The award dated 30.4.2012 is modified to the extent that an amount of Rs.4,40,000/- awarded by the Tribunal, is enhanced to Rs.6,55,000/-. The claimants would be entitled to the enhanced amount alongwith interest at the rate of 6% per annum from the date of filing of the petition till its realization.

The appeal is partly allowed in the above terms.

(AVNEESH JHINGAN)
JUDGE

31.10.2017
reema

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No