

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

FAO No.747 of 2012 (O&M)

Date of decision: September 18, 2017

Jyoti and others

....Appellants

Versus

Dharambir and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Saggar Aggarwal, Advocate for
Mr. Ashit Malik, Advocate
for the appellants.

Mr. Vipul Sharma, Advocate for
Mr. Paul S. Saini, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J.(ORAL)

The present appeal arises out of the award dated 02.11.2011 passed by the Motor Accidents Claims Tribunal, Karnal (for short 'the Tribunal').

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

3. Brief facts relevant for the decision of the present appeal are that on 05.04.2011, Sunny Chauhan while going on his motor cycle bearing registration No.HR-08E-0799 was struck by Tata Sumo bearing registration No.HR-70-3690. The accident took place near village Rawa on Shahbad-Barara. As a result of the accident, Sunny Chauhan died on the spot. An FIR No.83 dated 06.04.2011 was registered at Police Station Shahbad-Barara.

4. A claim petition under Section 166 of Motor Accident Claims Tribunal Act, 1988 (for short 'Act') was filed claiming

compensation of ₹25.00 lacs.

5. The facts in the present appeal are not disputed by either of the parties. The only issue raised by the appellants is that no amount has been awarded under the conventional heads and further the amount awarded for funeral expenses is on the lower side.

6. I have heard learned counsel for the parties and perused the paper-book with their able assistance.

7. Learned counsel for the appellants argued that the deceased was 27 years of age and survived by a widow, minor daughter and parents. In the circumstances of the case, the Tribunal ought to have granted compensation under the conventional heads. It was further contended that ₹10,000/- awarded for funeral expenses is on the lower side. There is no dispute with regard to income assessed.

8. Learned counsel for the respondent argued that the claimants were not able to prove the income of the deceased and hence, ₹6,48,000/- already awarded is enough as compensation and there is no reason to interfere with the award.

9. The contention raised by learned counsel for the appellants deserves acceptance.

10. The Hon'ble 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."

A perusal of the above decisions shows that the compensation under the heads mentioned therein is to be awarded and further that the claimant should be compensated under various conventional heads, rather the amount awarded by the High Court were enhanced.

11. In view of the decision of the Hon'ble Apex Court and taking into consideration the facts of the present case, the claimants are awarded the following amounts under the conventional heads:-

S1 No.	Heads	Amount awarded by the Tribunal	Amount now awarded
1	Loss of Income	648000	648000
2	Funeral Expenses	10000	25000
3	Loss of Consortium	Not awarded	100000
4	Loss of love and affection	Not awarded	100000
5	Loss of estate	Not awarded	30000
6	Transportation expenses of the dead body	Not awarded	5000
	Total	658000	9,08,000

12. That the award dated 02.11.2011 is modified to the extent that amount of ₹6,58,000/- awarded by the Tribunal is enhanced to ₹ 9,08,000/-.

13. The claimant shall be entitled to the 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.

14. The appeal is, accordingly, partly allowed.

September 18, 2017
m. sharma

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No