

**212-A IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-10057-2014 (O&M)
Date of decision: 15.09.2017

Lakhan Singh and others

.... Appellants

Versus

Ravinder Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Anil Shukla, Advocate
for the appellants.

Mr. Ravi Malik, Advocate
for respondent No.1.

Mr. B.S.Tewatia, Advocate
for respondent No.2.

Mr.Lalit Kumar, Advocate for
Mr. Ashwani Talwar, Advocate
for respondent No.3.

Avneesh Jhingan, J.

The present appeal has been filed against the award dated 10.03.2014 passed by Motor Accidents Claims Tribunal, Palwal (hereinafter referred to as the 'Tribunal').

The facts relevant for decision of the present appeal are being noted below:

On 16.05.2009 Devender, aged 25 years, lost his life while his motorcycle bearing registration No.UP-85R-4417 was hit by Tata-407 bearing registration No.HR-38J-5134 (for short, 'the offending vehicle'). The offending vehicle was driven in rash and negligent manner. In the accident,

Devender suffered multiple grievous injuries and was taken to Om Hospital, Palwal. From there, he was taken to AIIMS, New Delhi. On the way, he succumbed to injuries. An FIR No.167 dated 17.05.2009 under Sections 279, 337 and 304-A of IPC registered at Police Station Sadar, Palwal.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), was moved by the widow and the parents of the deceased. The claimants claimed compensation of ₹10 lacs. It was claimed that he was working as Assistant Driver in TFO Department in M/s Orient Syntex, Bhiwadi, District Alwar (Rajasthan). It was further claimed that he was having monthly salary of ₹4,732/-.

The Tribunal, after considering the witnesses and evidence, awarded a sum of ₹7,11,480/- along with interest at the rate of 7% per annum. The amount of ₹10,000/- was awarded for loss of consortium, loss of estate and last rites respectively.

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

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

The counsel for claimants pleads that amounts awarded are very meager and needs enhancement.

A youth, who was 25 years old, lost his life in an accident. The facts are not disputed with regard to the rash and negligent driving. There is no dispute with regard to the multiplier or the deduction of self expenses. The only issue is that ₹10,000/- was awarded under the heads for loss of

consortium, loss of estate and last rites and transportation of the body respectively, are on the lower side and needs to be enhanced. No amount has been awarded for loss of love and affection to the parents.

Learned counsel for the respondent argued that he was working in a private company and his income as claimed has been accepted by the Tribunal. In such circumstances, no interference is called for the awarded compensation.

The issue regarding enhancement under conventional heads raised by learned counsel for the appellant deserves acceptance.

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 it is made clear that in order arrive at just and equitable compensation, the claimants should be adequately compensated under the conventional heads.

Keeping in view the young age of the widow and the grievance and sorrow of the parents of losing their son, the amount awarded under the conventional heads needs to be enhanced. At this stage, it may be mentioned that whatever the amount be paid, same cannot be a compensation for the sorrow and grievance suffered by the parents.

Keeping in view the totality of the facts and circumstances, the

enhanced amount under the various heads are as follows:-

<i>Sr.No.</i>	<i>Heads</i>	<i>Amount earlier awarded by the Tribunal</i>	<i>Now awarded</i>
1	<i>Dependency compensation awarded</i>	₹6,81,480/-	₹6,81,480/-
2	Loss of consortium	₹10,000/-	₹ 50,000/-
3	Loss of estate	₹10,000/-	₹30,000/-
4	Loss of funeral expenses	₹10,000/-	₹25,000/-
5	Transportation of body	Not awarded	₹5,000/-
6	Loss of love and affection to the parents	Not awarded	₹50,000/-
	Total	₹7,11,480/-	₹8,41,480/-

Net result is that the appeal is partly allowed and the award dated 10.03.2014 is modified to the extent that the amount awarded by the Tribunal of ₹7,11,480/- is enhanced to ₹8,41,480/-. The claimants will be entitled to enhanced amount alongwith interest at the rate of 6% per annum from the date of filing of claim petition till its realization.

(AVNEESH JHINGAN)
JUDGE

15.09.2017
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- 1.Whether the order is speaking/reasoned: Yes
- 2.Whether the order is reportable : Yes