

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1041 of 2015 (O&M)

Date of Decision: 25.10.2017

Charanjit Singh and others

.....Appellants

Versus

Satguru Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Aminder Singh, Advocate
for the appellants.

None for respondents No. 1 and 2.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for respondent No.3 (Insurance Company).

AVNEESH JHINGAN, J.

The present appeal has been filed against the award dated 2.9.2014 passed by the Motor Accidents Claims Tribunal, Sangrur (for short 'the Tribunal').

The brief facts necessary for adjudication of the present appeal are as under:

On 20.1.2013 five persons namely Harpal Kaur, Gurjit Singh, Hardeep Kaur, Jagtar Singh and Gurwinder Kaur, who were travelling in a Car bearing registration No.PB-11-Z-1105, met with a Motor vehicular accident. The said car was struck by a bus bearing registration No. PB-13-Z-9375 (for short 'the offending vehicle'). As a result of the accident, all the five persons died on the spot. FIR No. 13 dated 20.1.2013 was registered at Police Station Dirba.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by the LRs of deceased-Harpal Kaur.

The Tribunal after considering witnesses and evidence produced before it, awarded a sum of Rs. 5,21,000/-alongwith interest at the rate of 9% per annum.

The present appeal has been filed for enhancement of compensation awarded.

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

The facts are not in dispute by either of the parties.

There is no dispute with regard to rash and negligent driving of the offending vehicle.

Learned counsel for the appellants has argued that the age of the deceased was more than 50 years and she was a house-wife. She is survived by husband and three children. The Tribunal has awarded compensation for loss of dependency by considering her monthly income as Rs.3000/- per month. He argued that even if minimum wages of the said period is applied, the monthly income would be much more than Rs.3000/-. He further contended that no amount for loss of love and affection has been awarded by the Tribunal.

Learned counsel for the respondent No.3-Insurance Company defended the award and has argued that the deceased was a house wife and only notional income has to be awarded and minimum wages have no application in such circumstance. He further argued that all the three children are major and hence no compensation for love and affection should

be awarded.

The contentions raised by learned counsel for the appellants have substance.

The role of the house-wife can neither be under estimated nor can be measured in monetary terms. Her duties are 24 x 7. She works not for any monetary benefit but it is the love and affection of the family which keeps her going. In the present case, deceased is survived by a husband and three children who would be missing not only the wife and the mother but her contribution towards the family also. In such circumstance, it would be appropriate if the amount of Rs. 3000/- per month is enhanced for calculating the loss of dependency.

The Hon'ble Apex Court in Jitendra Khimshankar Trivedi and others Versus Kasam Daud Kumbhar and others, 2015 (4) SCC 237, has held as under:

"Even assuming Jayvantiben Jitendra Trivedi was not self-employed doing embroidery and tailoring work, the fact remains that she was a housewife and a home maker. It is hard to monetize the domestic work done by a house-mother. The services of the mother/wife is available 24 hours and her duties are never fixed. Courts have recognised the contribution made by the wife to the house is unvaluable and that it cannot be computed in terms of money. A house-wife/home-maker does not work by the clock and she is in constant attendance of the family throughout and such services rendered by the home maker has to be necessarily kept in view while calculating the loss of dependency."

Keeping in view the facts of the case that though technically minimum wages may not be applicable while calculating the notional

income of the housewife but definitely it can be taken as a yard-stick. If the minimum wages applicable during the relevant period are taken and thereafter the deduction for expenses is also considered, which is not to be done in case of a housewife, even then an amount of Rs.3000/- per month is on the lower side and it would be appropriate if the monthly earning of the deceased is taken as Rs.4500/-

Since multiplier is not in dispute, the loss of dependency would be recalculated in the table below taking the monthly earning as Rs.4500/-.

The contention for awarding compensation for loss of love and affection to the major children is also supported by the decision of this Court in Smt. Gurdev Kaur and others Versus Jharmal Singh and another, 2017 (3) The Punjab Law Reporter 9, has held as under:

“.....Appellants-claimant No.2 to 5 who are the major sons and daughters of the deceased also cannot be deprived of the compensation on account of loss of love and affection simply on the ground that they are major. It is a fact of common knowledge that in our society father enjoys the unique position. Even the major children have lot of love and respect for their father. They also seek guidance and advice of their father for the important matters in their life and family. Thus, appellants-claimants No. 2 to 5 shall certainly be entitled to the compensation on account of loss of love and guidance of their father to the extent of ₹ 2,00,000/-.....”

This Court in Munshi Ram and another Versus Balkar Singh and others, 2016 (2) PLR 526, has held as under:

“4. As regards the quantum in FAO 598 of 2014, the deceased was 51 years of age and a housewife.

The claimants were the husband and major son and major daughter. The Tribunal took the value of her services at Rs.2500/-. The counsel argues that there must be prospects of increase. Taking the value of services at Rs.4500/- and allowing for a multiplier of 11 suitable to the age of deceased, I will provide for the lakh of rupees for loss of consortium to the husband and make a further provision of Rs.25000/- to each major son and daughter for loss of love and affection.”

In view of the decisions referred above, the major children are also entitled to compensation for loss of love and affection.

<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. 3,96,000/-	Rs.5,94,000/- (4500 x 12 x 11)
2	Loss of consortium	Rs.1,00,000/-	Rs.1,00,000/-
3	Funeral expenses	Rs.25,000/-	Rs.25,000/-
4	Loss of love and affection	Not awarded	Rs.1,00,000/-
	Total:	Rs.5,21,000/-	Rs.8,19,000/-

Keeping in view the facts of the case and the decision referred above, a sum of Rs.1,00,000/- is awarded for loss of love and affection. The award dated 2.9.2014 passed in MACT No. 21 dated 19.2.2013 is modified to the extent that an amount of Rs.5,21,000/- is enhanced to Rs.8,19,000/-.

The claimants shall be entitled to enhanced amount alongwith interest at the rate of 6% per annum from the date of filing of the appeal till realization of the amount.

The appeal is partly allowed in the above terms.

25.10.2017
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No