

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

Date of Decision: 25.10.2017

(i) FAO No. 1044 of 2015 (O&M)

Gurbeer Singh

.....Appellant

Versus

Satguru Singh and others

.....Respondents

(ii) FAO No. 1045 of 2015 (O&M)

Gurbeer Singh

.....Appellant

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 appeals have 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, were travelling in a Car bearing registration No.PB-11-Z-1105 and 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 petitions under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') were filed by the son of deceased-Jagtar Singh and Gurvinder Kaur.

The Tribunal after considering witnesses and evidence, awarded a sum of Rs. 1,35,000/-each alongwith interest at the rate of 9% per annum in both the claim petitions on account of death of father and mother of the claimant.

The present appeals have 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 the parties.

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

Since both the appeals arise out of the same accident and are regarding loss of parents of the claimant, the same are being disposed of by a common order.

The claim petitions were moved by Gurbeer Singh son of deceased-Jagtar Singh and Smt. Gurvinder Kaur. The claimant lost both the parents in the aforesaid accident. Father was aged 51 years and mother was aged 50 at the time of accident.

Learned counsel for the appellant argued that the loss of

dependency should be calculated taking into consideration the minimum wages available at the relevant time. He further contended that loss of love and affection should be awarded as the appellant had lost both his parents.

Learned counsel for the respondent No.3 argued that the income of the deceased was not proved before the Tribunal. Moreover, deceased father of the appellant was doing the agriculture work and the entire estate has been transferred to the son, therefore, there is no loss. He further stated that the appellant is the major son, who has his own earning and has inherited the property also, in such case, no amount should be awarded for loss of love and affection.

The Tribunal did not award compensation for loss of dependency on the ground that the deceased father was an agriculturist and after his death the entire agriculture estate has been transferred to the son. There is a faculty in the reasoning given by the Tribunal. Though the agriculture land etc might have been transferred to the son but the contribution of father in the agriculture would not be there.

The contention of the learned counsel for the appellant deserves acceptance. Hon'ble the Apex Court has time and again held that after calculating loss of dependency, multiplier method should be applied.

The monthly income at the time of accident as per the Minimum Wages Act was Rs.4300/-, after making 1/3rd deduction for self expenses the monthly loss of dependency comes to Rs.2870/-and by applying the multiplier of 11 as per the decision of Hon'ble the Apex Court in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**, keeping in view the age of the deceased as 51 years, loss of dependency comes as under:

2870 x 12 x 11 =3,78,840/-

This Court in *Smt. Gurdev Kaur and others Versus Jharmal*

Singh and another 2017 (3) PLR 8, has held as under:

“12. There is no rebuttal to the statement of appellant-claimant Smt. Gurdev Kaur the widow of deceased Mam Raj that she and her two sons are living jointly. Meaning thereby both the sons were living jointly with their deceased father. No doubt both of them are major and are doing the private job. One of them is getting the salary at the rate of Rs.7000/- to Rs.8000/- per month and the other is getting salary at the rate of Rs.10,000/- to Rs.12,000/- per month. So, it is not a case where the sons of the deceased were drawing big salaries and they were not in need of any contribution to the family by their father. It is an admitted fact that even if a son is major and is earning, he does not stop looking to his father for financial help. The sons, even if they are major, do not lose the status of legal representatives, about which there is a reference in Section 166 (1) (c) of the Motor Vehicles Act, 1988 (for brevity the "Act"). Therefore, even the major sons and daughters are entitled to maintain the claim petition on the death of their father.”

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“.....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 **National Insurance Company Limited Versus Paramjit Singh and others** 2017 (1) PLR 364, relying upon the decision of Hon'ble the Apex Court has held as under:

“9. A perusal thereof makes it clear that all or any of the legal representatives of the deceased may file application for compensation before the Tribunal. In this regard, no distinction is made between a major or minor and those dependent or not dependent on the income of the deceased.

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19. From all these decisions, it can be safely concluded that a legal representative who is entitled to inherit the estate of the deceased, even if he is not wholly dependent on the deceased, would be entitled to compensation.

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21. Thus, in view of various decisions as also having regard to the plain language of the provisions of Section 166 of the Act, I do not find any substance in the argument of the appellant that the respondents, the major married sons of the deceased, who may also have independent income are not entitled to compensation.”

In view of Section 166 of the Act and the above referred decisions, the legal representatives can claim compensation under the Act without any distinction of being major or minor.

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 for loss of love and affection.

Keeping in view the facts of the case, Rs.50,000/- is awarded for loss of love and affection.

The award dated 2.9.2014 passed in MACT No. 23 dated 19.2.2013 is modified to the extent that an amount of Rs.1,35,000/- is enhanced to Rs. 4,28,840/-.

So far as the claim petition claiming compensation on account of death of mother is concerned, it cannot be denied that even if the mother was a house-maker, her contribution towards the family cannot be disputed. It is unfortunate that the claimant lost both his parents in one accident. Though monetary benefit will not fill the vacuum created by loss, but in the facts and circumstances of the case, it is deemed appropriate that an amount of Rs.1,25,000/- is awarded over and above the amount already awarded by the Tribunal, as compensation. The award dated 2.9.2014 passed in MACT No. 24 dated 19.2.2013 is modified to the extent that a sum of Rs.1,35,000/- awarded as compensation is enhanced to Rs. 2,60,000/-. 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.

Both the appeals are partly allowed in the above terms.

25.10.2017
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No