

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

219

FAO No.1084 of 2015 (O&M)

Decided on : 23.10.2017

Jubeda and another

... Appellants

Versus

Imtyaz and others

.. Respondents

CORAM : HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present : Mr.Barjinder Singh, Advocate for
Mr.Ashish Gupta, Advocate
for the appellants.
Mr.Pradeep Kumar, Advocate
for the respondents.

Avneesh Jhingan , J. (Oral)

The present appeal is filed against the award dated 19.9.2014 passed by the Motor Accidents Claims Tribunal, Mewat (for short 'the Tribunal').

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

3. There is no dispute on the facts of the case by either party. The only contention raised is that the Tribunal while awarding compensation has not awarded any amount for loss of love and affection to the mother and no transportation expenses have been awarded.

4. The brief facts relevant for adjudication of the present appeal are that Alim aged 19 years was working as helper and conductor on Truck bearing registration No.HR-73-1725. On 11.10.2013, Alim along with driver Sahabuddin was sitting alongside the road and the labourers were unloading the truck, at that time, truck bearing No.HR-73-900 which was being driven rashly and negligently came and hit Alim. He sustained

multiple grievous injuries. He was immediately rushed to CHC Hodal from where he was shifted to Govt. Hospital, Palwal. On his way to Government Hospital, Palwal, he succumbed to his injuries. FIR No.122 dated 12.10.2013 was lodged.

5. A claim petition under Section 166 of the Motor Vehicles Act 1988 (for short 'the Act') was filed by the parents of the deceased.

6. The Tribunal after considering the material before it awarded a sum of Rs.8,67,000/- along with interest at the rate of 7% per annum. The amount awarded includes Rs.25,000/- for last rites and transportation of the dead body.

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

8. Learned counsel for the appellants has argued that the Tribunal has not awarded any amount for loss of love and affection to the mother of the deceased.

9. Learned counsel for the respondents has defended the award and opposed any enhancement of the amount already awarded.

10. The unfortunate parents lost their 19 years young son. Their bereavement and loss is irreparable. The mother would live rest of her life with pain of losing young son. Though no monetary benefit can fulfill this loss, yet in order to arrive at just and equitable compensation, loss of love and affection to mother should have been considered.

11. Hon'ble Apex Court in case of Vimal Kanwar and others Vs. Kishore Dan and others 2013 (7) SCC 476 has held as under:

30. Having regard to the facts and evidence on record, we estimate the monthly income of the deceased Sajjan Singh at Rs.9,000 x 2 = Rs.18,000/- per month. From this his personal

living expenses, which should be 1/3rd, there being three dependents has to be deducted. Thereby, the 'actual salary' will come to Rs.18,000 – Rs.6,000/- = Rs.12,000/- per month or Rs.12,000 x 12 = Rs.1,44,000/- per annum. As the deceased was 28 ½ years old at the time of death the multiplier of 17 is applied, which is appropriate to the age of the deceased. The normal compensation would then work out to be Rs.1,44,000/- x 17 = Rs.24,48,000/- to which we add the usual award for loss of consortium and loss of the estate by providing a conventional sum of Rs. 1,00,000/-; loss of love and affection for the daughter Rs.2,00,000/- , loss of love and affection for the widow and the mother at Rs.1,00,000/- each i.e. Rs.2,00,000/- and funeral expenses of Rs.25,000/-.

12. From the perusal of the above decision, it is evident that Hon'ble Apex Court awarded a sum of Rs.1 lakh as loss of love and affection to the mother where she lost a son aged 28 years.

13. Keeping in view the age of the deceased and the age of mother it would be appropriate if a sum of Rs.1 lakh is awarded for the loss of love and affection to the mother of the deceased.

14. The award dated 19.9.2014 is modified to the extent that the amount of Rs.8,67,000/- awarded by the tribunal is enhanced to Rs.9,67,000/-. The claimants shall be entitled to enhanced amount along with interest at the rate of 6% from the date of filing of the claim petition till its realization.

Petition stands allowed with the above modification.

[Avneesh Jhingan]
Judge

23.10.2017

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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No