

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

1

FAO-2015-2014

Date of decision: 13.09.2017

Kavita

.... Appellant

Versus

Ayub Khan and others

..... Respondents

FAO-5164-2014

2

Bimla Devi and another

.... Appellants

Versus

Ayub Khan and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Pardeep Sehrawat, Advocate for
Mr.Vivek Goel, Advocate
for the appellant in FAO-2015-2014.

Mr. Sanjiv Gupta, Advocate
for the appellant in FAO-5167-2014.

Mr.R.K.Bashamboo, Advocate
for respondent No.3.

Avneesh Jhingan, J.

Present appeals have been preferred by the claimants against the
award dated 02.12.2013 passed by Motor Accidents Claims Tribunal,
Kurukshetra (hereinafter referred to as the 'Tribunal').

FAO No.5164 of 2014 has been filed by the parents of Rajinder
Kumar and FAO No.2015 of 2014 has been filed by the widow of Rajinder
Kumar.

The present appeals are filed for enhancement of the compensation awarded. Since common issue is involved and appeals arise out of one award, same are being decided by a common order.

The brief facts necessary for adjudication of the present appeals are that on 15.08.2011 Rajinder Kumar while driving on a scooty bearing registration No.HR-07-7192 was run over by a rashly and negligently driven truck bearing registration No.HR-58A-4380 (for short, 'the offending vehicle'). He died on the spot. An FIR No.445, dated 15.08.2011, was registered under Sections 279 and 304-A of the IPC at Police Station City Thanesar District Kurukshetra.

The Tribunal after considering the witnesses and evidence, awarded a sum of Rs.9,80,000/- along with interest @ 7.5% per annum. The amount awarded including loss of estate Rs.5,000/-, loss of consortium Rs.10,000/-and funeral expenses Rs.5,000/-.

I have heard the learned counsel for the parties and have perused the paperbook with their able assistance.

The facts have not been disputed by either parties.

Learned counsel for the appellant has argued that the amount awarded under the conventional heads is on the lower side and keeping in view the age of the deceased was 32 years at the time of the accident and that he was survived by old parents and widow, the same should be enhanced.

Learned counsel for the respondent has defended the award and has contended that the amount of Rs.9,80,000/- has already been awarded and hence no interference is called for and the appeal is liable to be dismissed.

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 Rs. 5,000/- each towards loss of estate, funeral expenses and loss of consortium. We award Rs.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, Rs.25,000/- towards funeral expenses and Rs.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 Rs.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 Rs.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 and affection.

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 Santosh 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 Rs.2500/- to Rs.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.

Keeping in view the above decisions of the Hon'ble Apex Court and considering the fact that widow has remarried, the amount awarded under the conventional heads are meager and are required to be enhanced. Keeping in view the circumstances of the case, the amount awarded for loss of estate is enhanced to Rs.25,000/-funeral expenses are enhanced to Rs.25,000/-, loss of consortium is enhanced to Rs.25,000/- and Rs.1 lakh is awarded on account of loss of love and affection. The award dated 02.12.2013 is modified to the extent that the amount of Rs.9,80,000/- awarded is enhanced to Rs.11,35,000/- . The claimant shall be entitled to enhanced amount along with interest @ 6% per annum from the date of filing the claim petition till the realisation of the amount.

The amount awarded for the loss of love and affection along with interest thereon would be paid to the parents and rest of the amount along with interest thereon would paid to the widow.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

13.09.2017

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Note:

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