

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No.1782 of 2015 (O&M)

Date of Decision: 20.9.2017.

Sumitra and another

.....Appellants

Versus

Ratnesh and others

.....Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. J.S. Saneta, Advocate
for the appellants.

Mr. D.S. Virk, Advocate
for respondents No. 1 and 2.

Mr. Suman Jain, Advocate
for respondent No.3.

AVNEESH JHINGAN, J.

The present appeal is against the award dated 19.11.2014 passed by the Motor Accidents Claims Tribunal, Panipat (for short 'the Tribunal').

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

Om Singh lost his life in an accident on 5.9.2012. He was coming on his motor cycle from Ambala to Panipat. On his way he was struck by a truck bearing registration No. HR-46-B-6859 (for short 'the offending vehicle'). The accident occurred near Shiv Dhaba, Rattangarh, Shahbad. Om Singh died on the spot. FIR No. 255 dated 6.9.2012 was registered at Police Station Shahbad. The deceased was 52 years of age at

the time of accident.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by the widow and major son of the deceased.

The Tribunal after considering the evidence and witnesses, awarded compensation of ₹ 7,14,088/- along with interest at the rate of 9% per annum. The amount awarded included Rs.10,000/- as funeral expenses.

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

There is no dispute on facts by either of the parties.

The only issue raised by learned counsel for the appellants is that no compensation has been awarded under the conventional heads and the amount of ₹ 10,000/- awarded for funeral expenses is on the lower side.

Learned counsel for respondents have vehemently defended the award and has argued that the amount already awarded by the Tribunal is sufficient and no interference is called for.

The contention raised by learned counsel for the appellants deserves acceptance.

Hon'ble the 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. Kunjujamma 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.

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 ₹ 2500/-. The counsel argues that there

must be prospects of increase. Taking the value of services at ₹ 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 ₹ 25000/- to each major son and daughter for loss of love and affection.”

A perusal of the above decisions, legal position which has arisen is that in a fatal accident, the claimants should be compensated under the conventional heads also. The another position is also clear that even the major children are also entitled for love and affection.

In view of the legal position as enumerated above, the compensation awarded by the Tribunal is enhanced as per the table given below:

<i>Sr. No.</i>	<i>Description</i>	<i>Amount earlier awarded by the Tribunal</i>	<i>Amount now awarded</i>
1	Funeral Expenses	₹ 10,000/-	₹ 25,000/-
2	Loss of consortium	Not awarded	₹ 50,000/-
3	Loss of estate	Not awarded	₹ 25,000/-
4	Loss of love and affection	Not awarded	₹ 50,000/-
5	Loss of dependency	₹ 7,04,088/-	₹ 7,04,088/-
	Total	₹ 7,14,088/-	₹ 8,54,088/-

The award dated 19.11.2014 is modified to the extent that amount of ₹ 7,14,088/- awarded by the Tribunal is enhanced to ₹ 8,54,088/-

The claimants shall be entitled to enhanced amount along with

interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the claim amount.

The appeal is, accordingly, partly allowed in the aforesaid terms.

20.09.2017
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No