

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 4098 of 2013 (O&M)

Date of Decision: 9.10.2017.

Kuldip Kaur and others

.....Appellants

Versus

Harjit Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Dhiraj Chawla, Advocate
for the appellants.

Mr. Karan Singla, Advocate
for respondents No. 1 and 3.

AVNEESH JHINGAN, J.

The present appeal has been filed against the award dated 16.11.2011 passed by the Motor Accidents Claims Tribunal, Ferozepur (for short 'the Tribunal').

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

On 16.1.2009 Gurjant Singh aged 25 years was travelling in a jeep bearing registration No.MP-15-8361. At about 5:00 p.m. near village Kot Katore Kalan, bus bearing registration No. PB-11-U-8307 which was being driven rashly and negligently struck the jeep. As a result of the accident Gurjant Singh suffered grievous injuries and was taken to Chawla Hospital, Talwandi Bhai, but he died before reaching the hospital. FIR No. 7 was registered.

The claim petition under Section 166 of the Motor Vehicles

Act, 1988 (for short 'the Act') was filed by the widow, minor daughter and

parents of the deceased. The Tribunal after considering the evidence and witness awarded a sum of ₹ 6,70,000/- along with interest at the rate of 7% per annum. The said amount awarded included ₹ 10,000/- for loss of consortium and ₹ 12,000/- for funeral expenses.

Aggrieved of the said award, the present appeal has been filed for enhancement of compensation.

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

Learned counsel for the appellant contended that while awarding the compensation the trial Court has not considered the amount to be awarded under the conventional heads. He contended that the amount awarded for loss of consortium and for funeral expenses are on lower side.

Learned counsel for the respondents No. 1 and 3 has argued that the claimants were not able to prove the income of the deceased before the Tribunal. In such circumstances, the amount awarded by the Tribunal needs no interference. He further pleaded that amount has also been awarded for loss of consortium and funeral expenses, therefore, the argument of the claimants that conventional heads have not been taken care of, no more survives.

It may be mentioned at this stage that the appellant has not disputed the loss of dependency compensation but his averments are only with regard to awarding amount under conventional heads and for enhancement of amounts already awarded deserve 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.”

As per the decisions of Hon'ble the Apex Court, referred above, the amount under conventional heads should be awarded. Hon'ble the Apex Court has held that these amounts awarded under conventional heads should be increased from time to time.

Keeping in view the fact that the deceased was a young man and the claimants included a young widow, a minor daughter who was only 8 months old at the time of accident, the amount awarded by the Tribunal needs to be enhanced. The loss of love and affection and loss of guidance to the minor child should have been considered while awarding the compensation.

Keeping in view the facts and circumstances of the case, the amount under various head are awarded and the amount already awarded are 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	Loss of dependency	₹ 6,48,000/-	₹ 6,48,000/-
2	Loss of consortium	₹ 10,000/-	₹ 1,00,000/-

<i>Sr. No.</i>	<i>Description</i>	<i>Amount earlier awarded by the Tribunal</i>	<i>Amount now awarded</i>
3	Funeral expenses	₹ 12,000/-	₹ 20,000/-
4	Loss of love and affection	Not awarded	₹ 1,00,000/-
5	Expenses for transportation of dead body	Not awarded	₹ 5000/-
	Total	₹ 6,70,000/-	₹ 8,73,000/-

The award dated 16.11.2011 is modified to the extent that an amount of ₹ 6,70,000/- is enhanced to ₹ 8,73,000/-.

The claimants shall be entitled to the enhanced amount alongwith interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount except for a period of one year, seven months and fifteen days, which was excluded by this Court while condoning the delay vide order dated 11.4.2016.

The appeal is partly allowed in the aforesaid terms.

9.10.2017
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No