

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

FAO No. 3974 of 2014 (O&M)

DATE OF DECISION : 29.09.2017

Smt. Usha and others

.... APPELLANTS

Versus

Ashok Kumar and another

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Ankur Gupta, Advocate,
for the appellants.

Ms. Swati Gupta, Advocate,
for respondent No. 2 – Insurance Company.

* * *

AVNEESH JHINGAN, J. (Oral)

The present appeal has been filed against the award dated 30.04.2012 passed by the Motor Accident Claims Tribunal, SAS Nagar Mohali (for short 'the Tribunal').

On 22.03.2010, Devinder Kumar Sharma aged 48 years was hit by an Indica car bearing registration No. HR-04-B-7807. As a result of the accident, he suffered multiple injuries and lost his life.

A claim petition under Section 166 of the Motor Vehicles Act,

1988, was filed by the widow, one minor daughter and two major daughters of the deceased.

The Tribunal, after considering the evidence and witnesses, awarded a sum of ₹ 5,38,000/- along with interest at the rate of 8% per annum, which included ₹ 20,000/- on account of expenses for funeral expenses and loss of estate etc.; and ₹ 50,000/- on account of future prospects of the deceased.

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

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

Learned counsel for the appellants argued the Tribunal has not awarded compensation under the conventional heads and more over, the amount awarded for funeral expenses and loss of estate is on lower side and requires enhancement.

Learned counsel for respondent No.2 – Insurance Company vehemently defended the award and argued that nothing more should be awarded under the conventional heads. However, she could not raise any serious objection with regard to the law laid down by the Hon'ble Apex Court in ***Rajesh and others Versus Rajbir Singh and others***, 2013 (9) SCC 54, and in ***Asha Verma and others Vs. Maharaj Singh and others***, 2015(4) SCC (Civil) 767.

The contentions of learned counsel for the appellants deserve

acceptance, in view of the law laid down by the Hon'ble Apex Court in the aforesaid two decisions. In ***Rajesh's case*** (supra), it has been 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 ₹ 2500/- to ₹ 10,000/- in those heads was fixed several decades ago and having regard to inflation factor, the same needs to be increased.”

Thereafter, following the aforesaid decision in ***Rajesh's case*** (supra), Hon'ble the Apex Court in ***Asha Verma's case*** (supra) 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. 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 ₹ 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.”*

From a perusal of the above decisions, it is evident that the Tribunal ought to have awarded compensation under various conventional heads and even the amount awarded by the Tribunal needs to be enhanced. Hence, the compensation already awarded by the Tribunal on account of funeral expenses and loss of estate is enhanced. Further, the appellants are also awarded compensation under various conventional heads, as per the table given below :-

<i>Head</i>	<i>Amount awarded by the Tribunal</i>	<i>Now awarded by this court</i>
Loss of dependency	₹ 4,68,000/-	₹ 4,68,000/- (no enhancement)
Funeral expenses	₹ 20,000/-	₹ 25,000/- (enhanced by ₹ 5,000/-)
Loss of estate	Nil	₹ 50,000/- (enhanced by ₹ 50,000/-)
Future prospects	₹ 50,000/-	₹ 50,000/- (no enhancement)
Loss of love and affection	Nil	₹ 1,00,000/- (enhanced by ₹ 1,00,000/-)
Loss of consortium	Nil	₹ 1,00,000/- (enhanced by ₹ 1,00,000/-)
Loss of care and guidance to minor children	Nil	₹ 50,000/- (enhanced by ₹ 50,000/-)
Total	₹ 5,38,000/-	₹ 8,43,000/- (enhanced by ₹ 3,05,000/-)

In view of the above, the award dated 30.04.2012 is modified to the extent that the compensation of ₹ 5,38,000/- awarded by the Tribunal is enhanced to ₹ 8,43,000/-.

The appellants - claimants shall be entitled to the enhanced amount along with interest at the rate of 6% per annum from the date of filing of the claim petition till realisation of the amount, except interest for 239 days, which was declined to them vide order dated 12.05.2016, while condoning delay in filing the appeal.

The appeal is partly allowed and disposed of accordingly.

September 29, 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes