

207 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4666 of 2013 (O&M)
Date of Decision: 13.09.2017.

Ritu Bala and Another

... Appellants

Versus

Mani Ram and Others

... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vinod Kanwal, Advocate for
Mr. Ashit Malik, Advocate
for the appellants.

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

AVNEESH JHINGAN J. (ORAL)

This is an appeal arising out of the award dated 09.05.2013 passed by Motor Accident Claims Tribunal, Karnal (in short 'the Tribunal').

Nand Lal 50 years old, lost his life while his bicycle was hit by a canter bearing registration No.HR-45A-7025.

The accident occurred on 20.05.2010 near Sector-6 on G.T. Road, Karnal. The canter (for short, offending vehicle) was being driven in rash and negligent manner by Mani Ram. Nand Lal sustained multiple and grievous injuries. He was taken to General Hospital, Karnal from there he was referred to PGI, Chandigarh, but instead of PGI, he was taken to Dr. Parveen Garg Hospital, Karnal, where he succumbed to the injuries.

FIR No.428 dated 20.05.2010 under Sections 279 and 304-A, Indian Penal Code, was registered in Police Station, Civil Lines, Karnal.

The widow and the daughter of the deceased filed the claim petition under Section 166 of Motor Vehicles Act, 1988 (in short, The Act).

Compensation of ₹ 50,00,000/- was claimed. The Tribunal after considering the documentary evidence and statements of witnesses awarded total amount of ₹ 5,93,376/-. The amount awarded includes ₹ 5,000/- for loss of consortium, ₹ 2,000/- for loss of love and affection and ₹ 2,000/- awarded on account of expenses for last rites. The said amount was awarded along with interest @ 7.5%.

The facts have not been disputed by either party.

While arguing the appeal only issue raised is that amount awarded under conventional needs be enhanced.

The counsel for the appellants argued that the accident took place in 2010 and the deceased was survived by widow and daughter. At the time of accident, he was 50 years old and carrying on a business. In such circumstances, the amount awarded is too meager and suitable amount keeping in view his age and other factors should have been awarded under the Act.

The counsel for respondents on the other hand, argued that the claimants were not able to establish the earning of the deceased. He further submitted that daughter was a major child and in such circumstances the amount awarded is just and equitable and the award needs no interference.

I have heard the learned counsel for the parties and perused the record.

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. 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.*

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.

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 and further need to be increased from time to time.

As per decisions referred above the compensation should be just and reasonable and should have been awarded under the conventional head. Keeping in view the facts of the case and the law laid down by the Hon'ble Apex Court, the amount awarded for loss of consortium ₹ 5,000/-, for loss of love and affection ₹ 2,000/- and for funeral expenses, ₹ 2,000/- are on lower side and same are enhanced by ₹ 95,000/-, ₹ 48,000/- and ₹ 23,000/- respectively.

The award dated 09.05.2013 is modified to the extent that the amount awarded of ₹ 5,93,376/- is enhanced to ₹ 7,59,376/-.

The claimants shall be entitled to interest @ 6% on the enhanced amount of compensation from the date of filing the claim petition till realization.

The appeal is partly allowed in the manner aforesaid.

(AVNEESH JHINGAN)
JUDGE

September 13, 2017
rekha

whether speaking/reasoned
whether reportable

Yes/No
Yes/No