

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No. 4135 of 2014 (O&M)

Date of Decision:07.09.2017

Sumitra Devi and another

.....Petitioners

Versus

Harpreet Rai and others

.....Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mrs. Ekta Thakur, Advocate
for the petitioners.

Mr. Dinesh Maurya, Advocate for
Mr.G.S. Sandhu, Advocate
for respondents No. 1 and 2.

Mrs. Shamsheer Kaur, Advocate
for respondent No. 3.

AVNEESH JHINGAN, J.

The present petition has been filed against the award dated 7.2.2014 passed by the Motor Accidents Claims Tribunal, Chandigarh (for short 'The Tribunal').

The present appeal is the result of claim petition filed by widow and the major son of Vinod Kumar who unfortunately lost his life on 11.12.2011. The accident occurred when Car No. CH-02-2700, driven by him struck against the truck going ahead. The deceased was a retiree from Indian Council of Science Welfare of UT Branch, Chandigarh and was getting pension of ₹ 13,574/-per month. The Tribunal considering all the evidence, awarded total compensation of ₹ 7,92,996/- alongwith interest at the rate of 7.5% per annum.

Aggrieved of the award, the present appeal has been filed for

enhancement of the compensation.

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

Learned counsel for the appellants argued that no amount has been awarded to the major son under the head of loss of love and affection. It is further contended that the amount of ₹ 50,000/- awarded towards loss of consortium, is on lower side. Amount of ₹ 10,000/- awarded towards funeral expenses has also been challenged to be a meager amount.

Learned counsel for the Insurance Company vehemently argued that the deceased was survived by widow, who was getting pension and a major son, who was earning on his own and was not dependent upon the deceased. It was further contended that in such circumstance, no interference is called for in the award.

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 Rs.2500/-. The counsel argues that there must be prospects of increase. Taking the value of services at Rs.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 Rs.25000/- to each major son and daughter for loss of love and affection.”

In view of the decisions referred above, the major children are also entitled for loss of love and affection. Hence, an amount of ₹ 50,000/- is awarded for loss of love and affection.

After hearing learned counsel for the parties and keeping in view the entire circumstances of the case, the funereal expenses awarded of ₹ 10,000/- are enhanced to ₹ 25,000/- and ₹ 50,000/- awarded for loss of consortium is enhanced to ₹ 1,00,000/-.

No other issue has been raised except for grant/enhancement of conventional heads.

The appeal is partly allowed. The award dated 7.2.2014 is modified to the extent that compensation of ₹ 7,92,996/- is enhanced to ₹

9,07,996/-. The claimants would be entitled to enhanced amount alongwith interest at the rate of 6% per annum from the date of filing of petition till its realisation.

07.09.2017
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No