

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4168 of 2014

Date of decision:- March 09, 2017

SMT. KAMLESH DEVI AND OTHERS

....APPELLANTS..

VS.

SH. PAWAN KUMAR AND OTHERS

....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Sandeep Goyal, Advocate for the appellants.

Mr. Rajbir Singh, Advocate for respondent No.3.

JASPAL SINGH, J.

Feeling aggrieved against the award dated 02.09.2013, passed by Motor Accident Claims Tribunal, Karnal (for short, "Tribunal") in MACT No.76 of 2013, captioned as "***Smt. Kamlesh Devi and others vs. Sh. Pawan Kumar and others***" under Sections 166 and 140 of the Motor Vehicles Act, 1988 (for brevity, "the Act"), whereby the claimants were awarded compensation to the tune of ₹19,60,600/-, on account of death of Anil Kumar in a vehicular accident occurred on 06.08.2011, they have preferred the instant appeal for enhancement thereof.

2. Concededly, the monthly income of the deceased was assessed as ₹9583/- by ld. Tribunal. As such, the annual income of the deceased comes to ₹1,14,996/-. As the deceased was 30 years old at the time of his death, so the deceased has been given 30% future prospect (Rs.2874/-) by the ld. Tribunal and that way the income of the deceased came to ₹12,457/- (2874+9583). After deduction of 1/4th of income as personal expenses i.e.

3114 (12457-3114), net income came to Rs.9343/- and net annual dependency of the claimants came to ₹1,12,116/- (9343x12). The multiplier of 17 was applied taking into consideration the age of the deceased to be 30 years at the time of his death. The total dependency was worked out to ₹19,05,972/- (₹1,12,116x17). In addition to it a sum of ₹15,000/- was awarded on account of loss of consortium, loss of estate and funeral expenses, ₹40535 was also awarded on account of treatment and transportation totalling ₹19,60,607/- (in round figure ₹19,60,600/-). Thus, it is evident that 30% was paid on account of future prospects and nothing has been awarded on account of loss of love and affection whereas the amount of compensation awarded in lump sum on account of loss of consortium, loss of estate and funeral expenses is unjust and inadequate, especially, in view of the guidelines laid down by Hon'ble Apex Court in case captioned as ***"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another"* 2009(3) RCR (Civil) 77** which has subsequently been approved in case captioned as ***"Rajesh vs. Rajbir 2013 (3) RCR (Civil) 170***. As per the guidelines, the claimants are entitled for compensation on account of future prospects. The deceased was 30 years of age at the time of his death in accident, thus, the claimants are entitled to 50% of the actual income of the deceased instead of 30%. Thus the deceased is entitled to 20% (1916.7x12=23000) more in addition to the amount already awarded i.e. 149484+23000=172484/- (annual income including 30% plus 20%). After deduction of 1/4th of annual income as personal expenses comes out to ₹43121/- instead of ₹37371/-. Thus, the net loss of annual dependency of the claimants comes to ₹129363/-(1,72,484-43,121). After applying multiplier of 17 to the annual dependency, the total dependency comes to

₹21,99,171/-(1,29,363x17). Similarly, the appellants-claimants are also entitled for a sum of ₹20,000/- more on account of funeral expenses, besides ₹1,00,000/- on account of loss of love and affection. Besides it, Smt. Kamlesh Devi, widow of Anil Kumar (deceased) is entitled to a sum of ₹90,000/- more by way of compensation on account of loss of consortium. Thus, the total amount works out to ₹24,09,171/- to which the claimants are entitled on account of death of Anil Kumar. Thus, the claimants shall be entitled to enhanced compensation to the tune of ₹4,48,571/- i.e. an amount in addition to the compensation of ₹19,60,600/- already awarded by the Tribunal.

3. In the light of what has been discussed above, the appeal is partly allowed. Appellants-claimants shall be entitled to enhanced amount of ₹4,48,571/- in addition to the compensation already awarded. Out of the enhanced amount of compensation Ms. Kamlesh Devi widow shall be exclusively entitled to ₹90,000/- awarded on account of loss of consortium whereas the balance amount shall be shared equally by all the appellants/claimants. The insurance company-respondent No.3 is directed to pay the amount so enhanced within a period of 75 days from the date of receipt of certified copy of this order and on its failure to make the payment within stipulated period, it would entail interest @ ₹6% per annum from the date of filing of the clam petition before the Tribunal till realization.

4. Parties to bear their own cost.

March 09, 2017
sonika

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No